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**AKWESASNE
NOTES**
WHERE THE PARTICULARS COME

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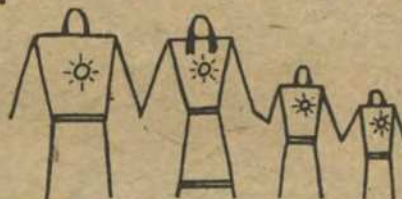
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NEEDED FOR NOTES:

Letter-size file folders, winter boots & shoes, working typewriter, desks, index cards, blue pencils, film strip projector, scissors, film, 36 mm camera, hearing-aid batteries.



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A NEW WAY TO HELP NOTES

Your contributions to AKWESASNE NOTES can now be tax-deductible. The Youth Project of Washington, D.C., a public foundation under 501-C-3 of the Internal Revenue Code has agreed to take NOTES under its wing as a research and educational project.

If you would like to support these efforts and receive the benefit of a tax-deductible contribution your check should be made out to Akwesasne Notes/The Youth Project, and sent to us here at NOTES.

Please note that subscription fees are not tax deductible.

FRONT COVER:

BLANKET, OSAGE, wool cloth with applique, beadwork. Beaded hands symbolize sacred will. Collection, Denver Art Museum, Photo by Eric Sutherland



HOW IT IS WITH US

HOW IT IS WITH US

With the mailing of our previous issue (13-5), a letter from our editor was sent to 500 people around the world. His letter was an appeal for immediate financial help, as we required \$20,000 to meet our bills to continue our work.

The response has kept us alive to print this issue. Of the \$20,000 we needed to raise, we have received \$9,223. That money has made a small dent in our printing bill, has enabled us to pay an additional \$1,000 deposit to the telephone company, and we have now been able to return our NOTES staff to a minimal subsistence pay.

Equally important, your letters to us bolstered our tired spirits. Your words have been heard and we are encouraged.

This issue of the NOTES, as usual, is replete with news of the Indian peoples of the Hemispheres. The problem of water -- one of the basic needs -- and the source of a number of struggles among Native peoples -- is prominent. Updates on Nicaragua and the Miskito Indians and the failure of Indian lawyers to defend Indian land rights are also included. There are many cases of injustice that need attention, and many Native peoples asking for help.

You won't see in this issue, any space given over to denunciations of Indian activists. No, we will not play into that old colonialist game, becoming pawns in the East-West conflicts and cannon-fodder for the real provocateurs.

But, when in South Dakota, California, Arizona, Central America or wherever Native people are oppressed, I know you'll see the AKWESASNE NOTES People doing what we can to help. Our thanks for your encouragement, and our hope that others will share your generosity.

That's how it is with us.



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The fine art drawings for the 12 months follow a dramatic sequence of events up to the creation of human beings. J.N.B. Hewitts version is printed not as fact or as the final word in Iroquoian Cosmology, but as an allegorical collage of Iroquoian oral history recorded by Hewitt around the turn of the century.

Includes Native poetry which follows the seasons by: Kahionhes, Rokwaho, Karoniatokie, Peter Blue Cloud, Joseph Bruchac and Maurice Kenny. "Herein you shall discover poems of truth, and poetry for the sake of beauty in the celebration of mystery. Life is an evolving celebration of purification, and if it is not, it should be

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WATER: UNFIT

FOR

HUMAN

CONSUMPTION

We come from water.
Everything that lives depends on water.
Water--the cleanser, the lubricant, the
giver of life.
Water--the blood of the Earth, the
connector.

She was sitting at the kitchen table, visiting--a young Mohawk mother, holding her six-months-old baby in her arms. The baby had just finished nursing and was drifting off to sleep.

"Well, I heard about the PCB's just a few days ago," she was saying. "But then my husband came home from the M.A.S.H. meeting and told me about how they get concentrated in the breast-milk--now I am REALLY worried."

The lady of the house poured a cup of tea and sat down. The young mother smiled jokingly: "PCB tea?" she laughed, then she went on:

"We are just not sure what to do. Should we drink our water? Should I continue to nurse my baby? Boy, we work hard on our farm down here. We're just starting out but we have good gardens and we have our animals...but this PCB thing has got us all depressed. Its just hanging there, over us. That scientist from the Band Council--he comes over, takes tests all the time--in our produce, our calves. Then we had that one cow kept aborting the young ones. We had to slaughter her for testing. Then when the Mt. Sinai people made all those tests last summer--they talked about flouride, PCB's, mercury, myrex. It gets to me now that sometimes I go to take a glass of water and I almost feel sick thinking what might be in there. I don't know but what I wonder is--how can these companies just do that to us, poison us like that and we just have to take it!"

The young mother here presented is a resident of the Racquette Point area of the Akwesasne Territory. Akwesasne (on the maps it is called the St. REGis Indian Reservation) is a territory of the Mohawk People, situated along the banks of the St. Lawrence River. The territory extends across the St. Lawrence to several islands on the "Canadian" side of the river--straddling the international border between the United States and Canada. Mohawk People, particularly the ones who follow the traditional ways consider

themselves a sovereign nation, with Mohawk rather than American or Canadian citizenship.

Like all Native Peoples, the citizens of the Mohawk Nation have endured their share of oppressive U.S. and Canadian colonial policies: they have withstood direct attacks, both political and military, against their traditional system of government, and have, for years, successfully resisted the attempt to suppress the unique Mohawk language and culture. Now, they are faced with the most terrible of all oppressions: the wanton destruction of the basic life-giving elements--Water, Air and Soil.

11

It was a cold evening in December. An emergency meeting had been called and the People were gathering at the Akwesasne Freedom School. An article in the previous day's paper had brought them together: the General Motors' Central Foundry, an industrial plant just up-river from the Akwesasne Territory had admitted to dumping "substantial amounts" of deadly PCB's in a sludge pool on the edge of the Racquette Point community. The Regional Director of the New York State Department of Environmental Conservation feared "widespread contamination of the groundwater."

Some seventy people had gathered. Throughout the day, the word had spread about the PCB sludge. At the NOTES' office, several editors began to conduct research on PCB's and by early afternoon a sufficient number of elders had concurred on the need for an emergency meeting. "I think it is time to meet this pollution problem head on," one said. "If it is getting to the point where the water is being contaminated, we have waited too long."

Pollution. Industrial contaminants. It

could easily be said that that these words have become synonymous with Akwesasne.

Akwesasne--a Mohawk word meaning Where-the partridge-drums. It is said that long ago, Mohawk hunters and fishermen canoeing on the St. Lawrence would hear the partridges drumming on the river banks. Akwesasne--a natural name.

On the St. Lawrence River, the Mohawks fished, and stories abound of a large and abundant catch that this mighty river once offered. On the banks, the large families farmed, worked their crafts, lived a simple, peaceful life.

But the industrial world and its "developers" could not leave the mighty St. Lawrence alone. Through the 1940's and 1950's, it was transformed into the international St. Lawrence Seaway, widened by dynamite blasts, dammed and locked, dredged and opened up to the large mining and trading ships that travel it all the way to northern Lake Superior.



The large industries came in then--Alcoa, Reynolds, General Motors, Domtar (On the "Canadian" side) -- aluminum smelters and paper mills. As with all such industry, they settled by the river--the waterway, a convenient source of coolant, lubrication and sewage disposal for their toxic-producing processes.

The world began to change very rapidly then for the Mohawk People. The Second World War had involved them in the American and Canadian systems more

deeply than any other previous generation in their history. The men particularly, after two generations of ironworking and soldiering were more and more willing to work for the white man's complicated and ever-expanding system. Little did they know, that the fine wages they were earning from the foreign industry would one day levy the heaviest tax of all.

The first industrial pollutant that the Mohawk People took notice of was the air-borne flouride ash that the Reynolds Aluminum Company was discharging at the rate of thousands of pounds a day. They noticed that the flouride falling on the grass and produce quickly decayed their cattle's teeth. After a while, the calves, unable to chew or even drink cool water, would wither away and die. The dairy herds' milk production decreased while stillbirths among the farm animals increased.

Not long after that, the Ontario Ministry of Health and other health agencies began warning of the rising methyl mercury contents in the St. Lawrence River fish. Warnings against eating the St. Lawrence River fish continue to increase, while rising consciousness of mercury-induced Minamata disease keeps more and more people from fishing.



Even the crafts work, particularly the famous Mohawk baskets made from the Black Ash tree, has suffered, as the trees, affected by the pollutants, become harder and harder to find.

And now, PCB's—one of the most indestructible chemical compounds ever manufactured, a cumulative toxic that once ingested stays in the body, concentrating itself in higher and higher quantities, taxing the human organism beyond its tolerance, inducing malfunctions, cancer.

At the emergency meetings, the first reports were heard. The various researchers told what they had found out and several chiefs suggested courses of action.

The New York State Health Department, one leader told, wanted to come to the territory to take water samples from the Racquette Point wells. The people were suspicious of the State's methods and intention. They could come in and take their samples, it was agreed, but the group would conduct its own investigation also, utilizing private laboratories.

A mixture of anger and fear predominated at the meeting, and has ever since here at Akwesasne since the most recent revelations of industrial poison. At the meeting, as always in this community, someone reminded the people about the concern for the future generations. "We should come to the agreement, right here and now, that our goal, our objective, is to secure clean drinking water—for ourselves and for our children. That's what we should organize and fight for. Not any kind of cash settlement, not apologies from the company, or pats on the head. If they have or are in the process of destroying our drinking water, then they must be made liable for their actions."

That night, an organization was born, Mohawks Agree on Safe Health (M.A.S.H.). It was organized into four workgroups: Mobilization; Research/Documentation; Outreach/Communication; and Fundraising. A newsletter, POLLUTION ALERT, was later established. And the M.A.S.H. Water Task Force collected water samples that have been sent in to independent laboratories as of this writing.

At a press conference well attended by the regional media, the following statement (in part) was released:

"This is a press conference to announce the creation of a united front among the Mohawk people to confront the threat to our community posed by industrial pollutants.

This united front is organized under the name -- Mohawks Agree on Safe Health or M.A.S.H. M.A.S.H. is a non-factional group of concerned residents of Akwesasne. We are united in the common objective of ensuring clean, safe drinking water for our present and future generations.

Clean water, fresh air, land that will grow crops -- these, we understand, are the only elements which will guarantee the survival of our community, of our health. Yet, we look about us and find ourselves surrounded by industries which produce wastes that are toxic, poisonous, and which, increasingly, are destroying these life-giving elements. PCBs, mercury, myrex, flouride -- these are some of those poisons. They are industrial pollutants that have been recognized as dangerous by the medical-scientific community.

The very water we drink is affected by these poisons. The very milk our women breastfeed to our children is, more and more, found to be also affected.

Our organization, M.A.S.H., is currently organizing a research and documentation group composed of scientists, lawyers and health workers. As of this week, we will be conducting our own independent tests on the ground-water wells in this area. Also, we will be testing mother's milk -- as it is well-known that PCBs are passed on to nursing babies in concentrated doses.

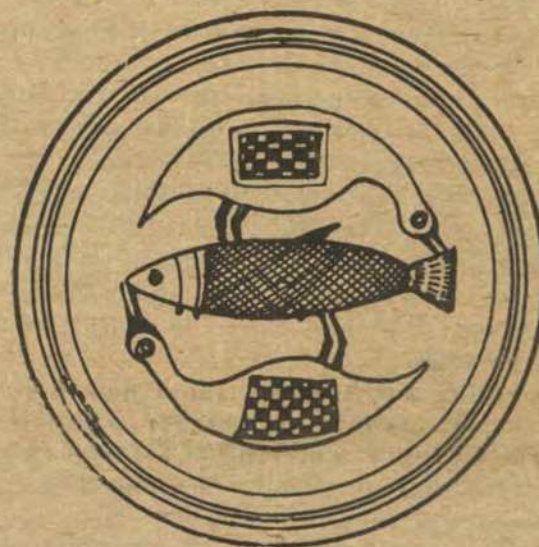
In coming weeks, our group will also sponsor a variety of public awareness events -- including forums, and workshops,

bringing experts on these subjects -- both professionals and common people who have been affected by industrial pollutants -- into our community.

Our goal, in all these activities -- from research and possible litigation to public discussions -- is to ensure clean drinking water for the present and future generations.

For years we have known the effect of flouride emissions on our cattle -- how it rots out their teeth, how it attacks their bones -- we wonder: what is it doing to our children?

The St. Lawrence River -- only one generation ago was a clean, beautiful body of water. Now it is commonly referred to as the sewer of industrial America -- scientists call it "alphabet soup" -- because of the many chemicals that are discharged into it.



Consider that the effect of all these chemicals are cumulative -- that they accumulate, first in the food chain (from small bacteria to the fish, gardens, etc.) and then in our own bodies over the years. Consider too, that their effects on our own health are compounded as we are barraged by different chemicals. We understand all too well that people don't drop dead from PCBs, mercury, or flouride overnight -- we are fully informed by our science friends that these poisons accumulate, month by month, year by year, in the natural food chain, in our own bodies in time producing cancers, respiratory ailments, birth defects -- that it is not we sitting right here now who will experience the full effects of these toxics, it is the next generation and their babies who will inherit these horrors.

We would point out too, that a great deal more scientific research and more public information is needed. Soon, in March, we will have the results of the Mt. Sinai St. Regis Health Study -- probably the most comprehensive research program of its kind ever, we encourage a lot more of that kind of study and we are looking for sound chemical, geological and legal information.

Recently, some twenty wells were tested by the New York State Health Department for possible PCB contamination. The returns on the first seven appeared negative (since then one well has

been definitely found to be contaminated) and some people seem to think that means there is no problem. Yet, scientists inform us that PCBs are not water-soluble and are thus difficult to find in water samples, even though they may be there.

We are saying -- this problem of chemical contamination is a very complex one. Chemicals such as PCBs, which were thought safe twenty years ago are now considered dangerous to health. How many of the new chemicals currently in use will turn out to be poisonous ten years from now?

There is an old story about frogs. They say that if you drop a frog into boiling water, it will quickly jump out, saving itself. However, if you put a frog in lukewarm water, so that it settles in comfortably -- and then slowly pour in more and more hot water -- the frog will stay put, until the hot water kills it.

This, we believe, is what is happening to our community. The effects of all these toxic wastes will accumulate -- and if we are not careful we may go the way of the sleeping frog."

Several community leaders, representing the Canadian Band Council, the New York State Elective System and the traditional Longhouse Council sat together and united within M.A.S.H. at this press conference.

Since then, reports of the Mt. Sinai St. Regis Health Study (see NOTES Vol. 13 No. 5) indicate traces of PCB found in the fatty tissues and blood serum samples from Akwesasne residents.

The M.A.S.H. group is continuing its research and also contacting similar community and environmentally-concerned groups. The newsletter, POLLUTION ALERT, has come out four times, and upon the request of a Nation lawyers' group, a 50-mile survey of industries on the four rivers converging on Akwesasne is underway.

The 50-mile survey is interesting in that it has led to an extension of this community's water consciousness. As the research continues, we have become aware that the basic human right to clean drinking water is under attack not only here, but throughout the whole of North America. Every major river has been used as a chemical sewage disposal system and whole underground aquifers are being drained and/or contaminated.

Water--the cleanser, the replenisher--makes its way through every cell of every living organism on Earth. It is one of the basic elements of necessity shared indiscriminately by all of Creation.



The following section details some of the other areas in North America where water is being abused, destroyed. Don't be relieved if you don't find your region in it. Look around, find out where your drinking water comes from, check and see what industries are active near your major waterways, share your knowledge with us...and remember, WATER IS LIFE.

UPDATE - UPDATE - UPDATE

As we go to press we have just received the latest press release from M.A.S.H.:

"We are still waiting positive identification of the pollutant that was found in 6 of the 12 water samples. Results from an independent laboratory were received Friday, Feb. 12, 1982.

'Still not 100% sure of its identification,' said a scientist, 'this pollutant (in all probability PCB) is in such high concentration that we (the lab) need more samples.'

Of the 12 wells tested two wells are over 1 million times higher than it should be. Four wells were found to have significant levels of a pollutant. **ALL SIX WELLS ARE TOTALLY UNACCEPTABLE FOR HUMAN CONSUMPTION.**



THE BASIC HUMAN RIGHT TO CLEAN DRINKING WATER IS UNDER ATTACK NOT ONLY HERE, BUT THROUGHOUT THE WHOLE OF NORTH AMERICA. EVERY MAJOR RIVER HAS BEEN USED AS A CHEMICAL SEWAGE DISPOSAL SYSTEM AND WHOLE UNDERGROUND AQUIFERS ARE BEING DRAINED AND/OR CONTAMINATED.

WATER -- THE CLEANSER, THE REPLENISHER -- MAKES IT WAY THROUGH EVERY CELL OF EVERY LIVING ORGANISM ON EARTH. IT IS ONE OF THE BASIC ELEMENTS OF NECESSITY SHARED INDISCRIMINATELY BY ALL OF CREATION.

WATER ABUSE - Continues

Most North Americans take it for granted that water will always be there at the turn of a tap. It may not be that way too much longer. Fresh pure water is as rare today as a breath of clean air. Through the accumulated abuse of the last four centuries, since the European migrations started, North Americans supply of clean unpolluted water is running low. Since those first settlers came to the "New World" over two million dams of one sort or another have been built on the continent, 60 million acres have been put under irrigation, over 100 million acres of vital wetlands have been drained (300,000 to 400,000 acres a year continue to disappear), millions and millions of water wells have been drilled, and thousands of miles of barge canals constructed. Because of such tampering, the waters of the continent can no longer flow free to clean and purify themselves.

POLLUTION OF AQUIFERS

Today, the purest waters are found in the aquifers below the ground. Aquifers are the Earth's underground reservoirs of

water that has percolated down from the surface. But the pollution of industrial and agribusiness America is reaching to this last refuge of clean water. In many places around the nation aquifers nearest the surface are being fouled by nitrogen fertilizers (the use is up from 14 million tons in 1950 to 113 million tons in 1980) and chemical insecticides, herbicides and fungicides -- staples of American agribusiness. Feed lots also are creating an unexpected source of pollution for underground water supplies. The combination of factors listed above seem to be responsible for the pollution of the Big Sioux aquifer of southeastern South Dakota. On the Pine Ridge Reservation in the southwestern part of the state, the ground and surface waters are quite polluted. The list of pollutants compiled by Women of All Red Nations includes radon gas, nitrates, 2,4,5T and 2,4D and raw sewage. State and federal officials act as if the problem doesn't exist. It is seen as an "Indian problem" and one that they don't have to deal with. A similar situation exists on the Navajo and Hopi lands where extensive uranium mining has

left all surface and ground water hopelessly polluted. And as if all this wasn't bad enough the vast Ogallala aquifer (156,000 square miles) that supports life and agriculture on the High Plains is running dry.

South Dakota sits atop the northernmost point of that giant water system which is currently supplying water to ten million cultivated acres. It stretches 800 million from top to bottom and holds enough water to fill Lake Huron. Because of drawdown for irrigation, more water is being used that can be recharged by natural forces. There are approximately 150,000 wells into the Ogallala and farmers in Nebraska are now reporting wells going dry at the 100 foot level. New wells have to go down hundreds of feet before hitting water.

These water problems are not going to just go away. They are going to get worse as corporations and government continue to pollute ground and surface waters. The nation's streams, rivers and lakes are little more than open sewers for the dumping of urban America's industrial waste and sewage. In addition, America's nuclear power reactors are all located on or near major rivers or coastlines. They routinely dump radioactive wastes into the nation's waters as do the factories that produce and fabricate the nuclear weapons for the atomic arsenal of the US.

ACID RAIN

US public utilities have turned an almost unbelievable trick in the last half of the 20th century. They have managed to turn rainwater to a consistency somewhere between vinegar and battery acid. Acid rain is killing all life in thousands of lakes in the Adirondacks of up-state New York and the entire glacial basin of the Great Lakes area is threatened by Mid-West coal-fired power plants. By making their smokestacks taller to avoid polluting the area immediately around a coal-fired plant, the utilities have made local pollution problems continental and international pollution problems as sulfur dioxide and nitrogen oxide pollutants ride the winds hundreds of miles away from their point of origin. When this rain falls on streams, rivers and lakes the animal and plant life dies.

ETSI

The technocrat who dreamed up the ETSI scam deserves some kind of award. Only a man totally out of touch with the natural world could have come up with an idea to send pulverized coal mixed with billions of gallons of scarce water almost two thousand miles through a pipe to the Gulf of Mexico where it will be dried out and used to fuel coal-fired power plants in two of the most energy rich states in the US. It is a criminal act to take that much water away from a region as arid as Wyoming and South Dakota and send it to the lush Gulf states.

Today, the average American uses 87 gallons of water a day. Broken down it looks like this: 24 for flushing, 32 for bathing, laundry and dishwashing, and 25 for swimming pools and watering the lawn. Only 2 gallons a day go to drinking and cooking. And if you add in the indirect usages of water such as the 60,000 gallons that go toward making a ton of steel for an automobile or the 3,500 gallons it takes to bring a steak to market then the average America's daily use shoots to over 2,000 gallons a day.

BY MIKE GARRITY



WHAT FOLLOWS IS A LISTING OF SOME OF THE MORE OBVIOUS RESULTS OF YEARS OF ABUSE TO OUR WATER RESOURCES:

---The federal Water Resources Council finds water shortages imminent in the Rio Grande and lower Colorado River basins and looming in other western regions, particularly the Missouri River basin.

---The arid Colorado Plateau and the Four Corners region's underground and surface waters are being polluted with radioactivity and nitrates by extensive uranium mining and milling.

---The same area may soon face extensive syn-fuel development which will use up millions of acre-feet a year of irreplaceable water.

---Industry, agriculture and Los Angeles now use so much Colorado River water that it no longer reaches the Gulf of California. What water does flow into Mexico is so polluted with salt that it is practically useless.

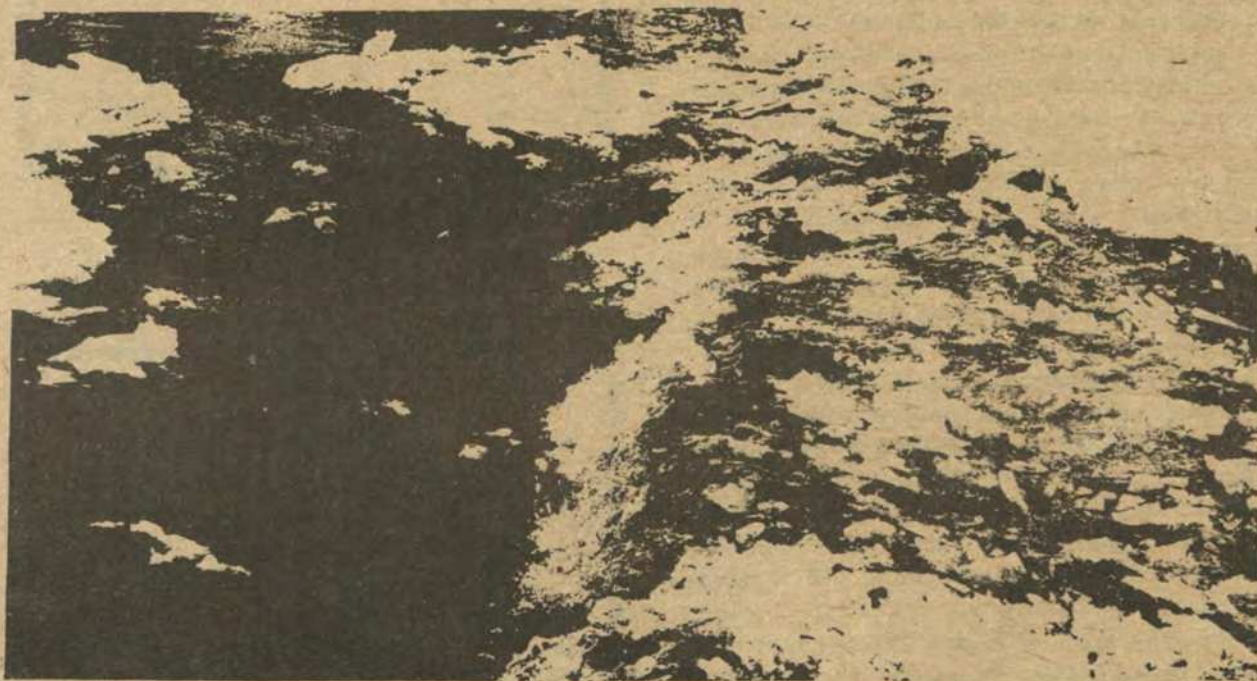
---California's San Joaquin Valley, some of the richest farmland in the world, has drawdown so much ground water for irrigation over the last few decades that land has subsided (fallen or sunk) up to thirty feet in some places.

---Around the Gulf coast states, from Texas to Florida, extensive drawdown of major aquifers has allowed saltwater seepage from the ocean to reclaim residential property and pollute wells.

---The drinking water in the coal fields of West Virginia comes from the tap a deep brown and stinking. It is estimated that 1/2 million Virginians drink polluted water daily.

---Chlorine and fluoride, regularly dumped in city water supplies to "purify" it for drinking are now both suspected of causing cancer by themselves or combining with other man-made chemicals in the water to form potent carcinogens.

---New York City uses 1 1/2 billion gallons of fresh water daily. Summer droughts yearly threaten the eastern seaboard even though the area has supposedly abundant supplies of water.



Massena Observer

Threats To Water On The Northern Great Plains

By Liliias Jones

In the Great Plains and the mountain West, when you refer to the "energy problem" you are also referring to a water problem. In that dry area, water is noticed, guarded, and fought over to an extent people in wetter states have a hard time comprehending -- although recently pollution and drought have given some people the idea. This has put more pressure on the water of the northern Plains, especially the Missouri River. For example, Exxon proposes to pipe water 600 miles from central South Dakota to central Colorado to allow oil shale development.

Every day, people in the United States pull out of the ground 21 billion more gallons of water than returns underground. Because water is unevenly distributed, some areas are running short quickly, and others still have plenty. The great river of the Southwest, the Colorado, has been doled out for various uses, and the amount of water everyone is supposed to get is more than runs in the river most years. Underground water there is also drying up. One of the two large water sources of the central and southern Plains, the Ogallala aquifer, is also running dry (see box).

On the northern Great Plains, the issues have become especially clear in western South Dakota, which stretches from the heavily dammed Missouri River to the Black Hills and the edge of Wyoming's coal fields. But before we can understand the water problems there, we have to understand the way water moves in the area.

A lot of people can't understand the effects that they have on water, and the main reason is that they don't know much about underground water. As a matter of fact, scientist don't know that much about underground water either, but they use terms that make what they do know hard for the rest of us to understand.

Basically, each place's water movement has to be studied separately, because geology and the shape of the earth vary a lot from place to place. Surface water -- streams, ponds, and reservoirs -- show how water runs on top of the earth. The movement of surface water is related to the movement of underground water, which is called by the shorter name "groundwater." Groundwater runs through many different layers of rock, moving through cracks in the earth and through the layers of rock themselves. Certain layers of rock are called "aquifers" because they contain large amounts of water. When someone drills a well, they drill into an aquifer to get water that is stored underground.

As any well driller will tell you, the quantity and quality of water in an aquifer vary from place to place. This is partly because the thickness of an aquifer varies. It also depends on how dense the rock is

Plains



The Ogallala Aquifer

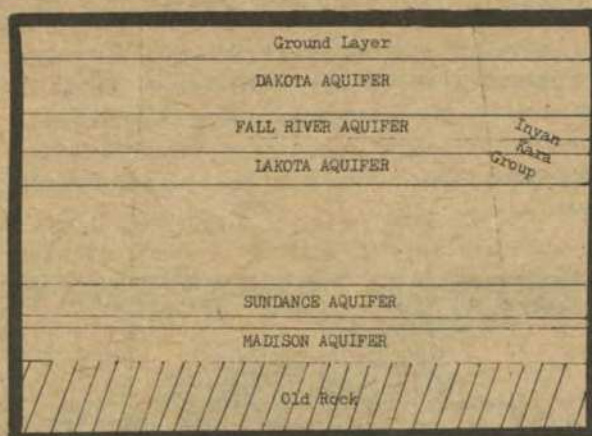


Figure 1 - Not to Scale

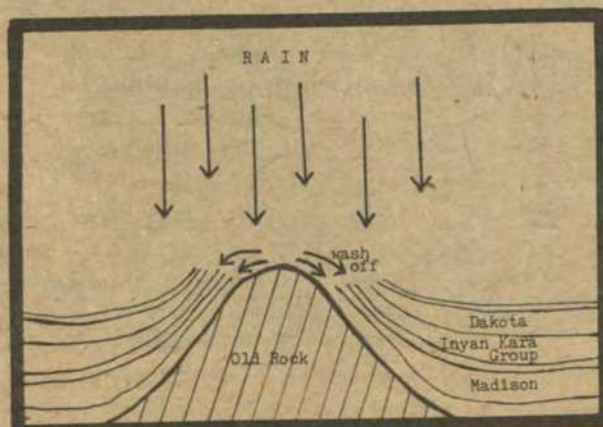


Figure 2

and on where there are cracks in the rock. Some aquifers move very fast underground, while others barely move. A well into an aquifer may pump great amounts of water in one place and only a trickle a mile away.

The quality of the water in an aquifer depends partly on what people drain into the water, but it also depends on the rock that the water flows through. Water that flows through rock that contains a lot of iron will have a lot of iron in it, and so on. So some aquifers are definitely better for drinking than others.

The size of various aquifers depends on a lot of things. Some are under huge areas of land, while others are fairly small. But regardless of its size, pumping water out of one place in an aquifer can lower well levels nearby, or overall pumping can be so great that an entire aquifer is emptied.

This is happening in many places in the western states, partly as a result of too many people living in dry areas, partly because of projects to "make the desert bloom" with crops, and partly because of huge energy operations.

In western South Dakota, across the 200 miles of plains between the Missouri River and the Black Hills, most water is very deep beneath the surface -- wells often have to be drilled several thousand feet to get water. And much of the water is low quality -- full of salt or radium, or just plain "hard." One rancher I know drilled a well to help him get through the drought of the 1930's -- an expensive project -- only to find that his cattle wouldn't drink the water because it was so hard.

Much of the water under the Plains flows east from the Black Hills. Figure 1 shows some of the layers of underground rock and major aquifers in western South Dakota. When the Black Hills were formed, pressure from under the earth forced very old rocks (at the bottom of Figure 1) to the surface. This made a kind of "bubble" of old rocks in the middle of the Black Hills. "Mount Rushmore" was carved from this old rock, which is very hard.

Around the "bubble," other layers of rock were pushed on their sides, so what we ended up with is a number of exposed edges of rock formations (Figure 2). Because the edges of the aquifer layers are exposed, water from rain and streams runs into the exposed areas and under the earth for storage -- and eventual pumping back to the surface. Many streams appear and disappear in the flow from the center of the hills toward the plains -- moving into and out of the rock, depending on how porous a particular layer is.

Water that runs into aquifers is said to "recharge" the aquifer. The Black Hills, because of the way aquifers are turned on

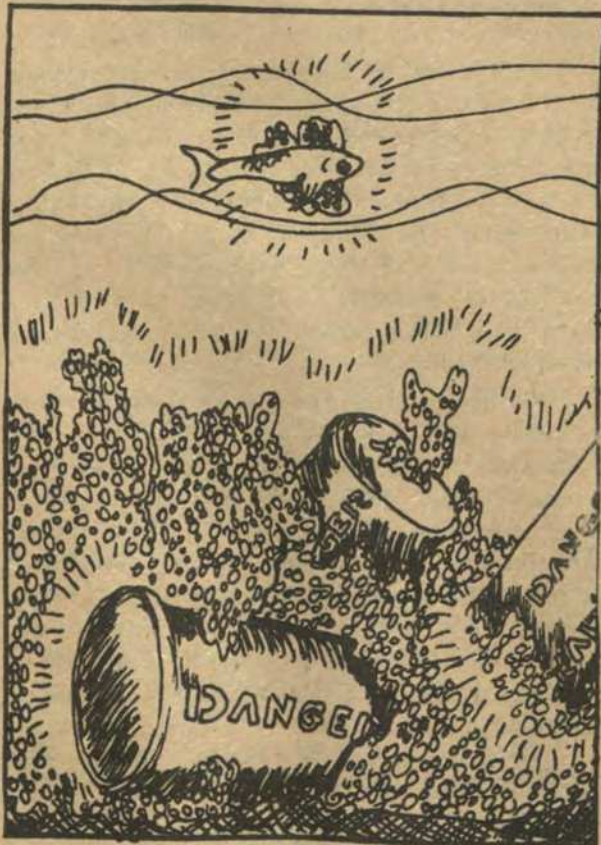
SOUTH DAKOTANS ARE DISCOVERING POLLUTION PROBLEMS BOTH FROM NATURAL CONTAMINATION AND FROM OLD URANIUM OPERATIONS. SEVERAL TOWNS HAVE DISCOVERED THAT THEIR WELLS ARE RADIOACTIVE -- AND THAT THERE'S REALLY NO WAY TO REMOVE RADIATION FROM THE WATER.

their sides, is an important recharge area for groundwater in the entire northern Great Plains. Aquifers also get recharged when water from one aquifer leaks into a lower aquifer, or when water is pushed into a higher aquifer because of water pressure. The entire thing works in a cycle: rain falls and forms streams, streams recharge aquifers, and water stored in aquifers is pushed or pumped back to the surface. Then surface water evaporates back into the air.

The activity of people can disrupt this cycle by taking more water out of the ground than the rain puts in. In the northern Great Plains, the cycle is easy to disrupt because of the relatively low amount of rain, and because the aquifers are so deep underground that recharge from rain takes a long time.

The Dakota aquifer and the Madison aquifer are the two most important groundwater sources in western South Dakota. The Dakota aquifer supplies 25% of the water used in South Dakota, while the Madison is used by many people in the southern Black Hills. Both aquifers are under high pressure and flow to the surface of the earth without being pumped -- their water is called "artesian" because it doesn't have to be pumped. Cascade Springs and Evans Plunge, tourist-attracting spas since the late 1800's, are two of the artesian springs that come from the Madison aquifer.

The Madison aquifer is huge, lying under parts of Alberta, Saskatchewan, Montana, Wyoming, North Dakota, Nebraska and Colorado, as well as most of western South Dakota. Because there are many holes and caves in the Madison formation, the water moves fairly fast.



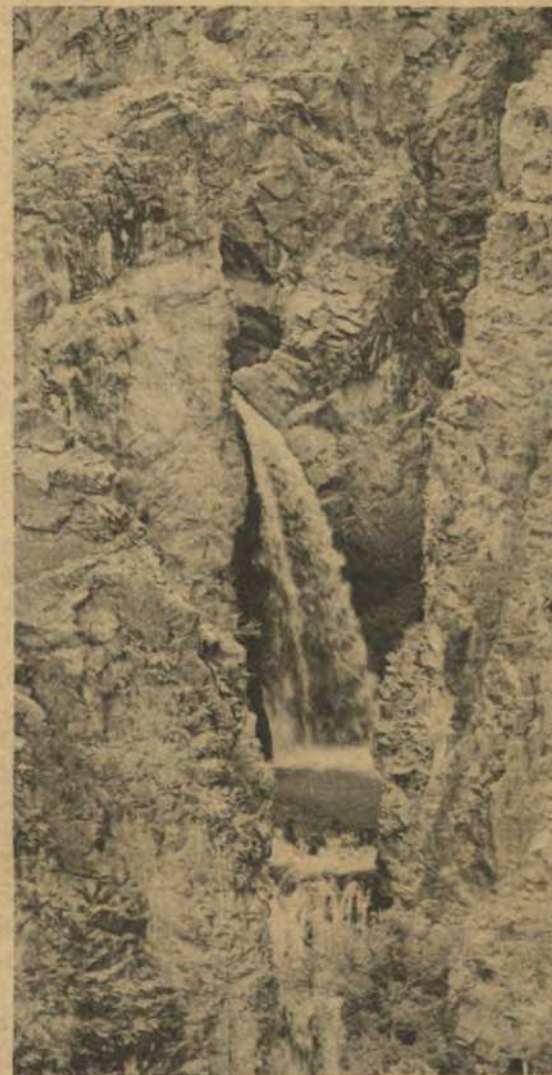
The use of groundwater has increased dramatically in South Dakota and the northern Plains over the last fifteen years, and the increase is likely to continue. Much of the change is linked to energy and to population growth caused by the jobs available in industries that mine or turn resources into electricity. For example, industrial use of groundwater in the Missouri River Basin increased 153% from 1965 to 1970, while use of groundwater for irrigation increased by about 65%. This trend continued from 1970 to 1980.

It's not just a matter of supply. As one federal publication explained: "Normally, users of water for irrigation or rural purposes require low-cost supplies; users of water for industrial or public-supply purposes can afford to pay higher prices for supplies. Competition for water supplies may cause a shift in water demand and use toward those users that are willing to pay higher prices..." In other words, agriculture would be priced out of the water market by energy companies.

South Dakotans are discovering pollution problems both from natural contamination and from old uranium operations. Several towns have discovered that their wells are radioactive -- and that there's really no way to remove radiation from the water. Wells in and near Midland and Philip, small towns on the Plains, are full of radium. So are two wells on the edge of Rapid City, one of which was closed down. In that case, officials had known of the problem for seven months, but no one was told until a local citizens's group blew the whistle. A federal geologist admits that all the aquifers in the area are contaminated in places.

Southeast of the Black Hills, on the Pine Ridge Reservation, widespread pollution has shown up. Radiation was found in wells on the northwest part of the reservation as early as 1956, when a government study said that the radiation might mean there were uranium deposits. But the public didn't know about that until early 1980, when a study by Women of All Red Nations (WARN) publicized the contamination and exposed a variety of health problems. The reservation miscarriage rate, for example, was 6 1/2 times higher than the national average, and certain types of birth defects and cancer were more common than they should have been.

The aquifers under the reservation are slightly different than under the rest of the



state, being tied more to Nebraska than to the Black Hills. Officials immediately showed how little was known about the area's groundwater by contradicting each other -- various people insisted the radioactive water came from several different aquifers.

The one thing that was known was that the radiation in one of the wells, which bordered the Cheyenne River, probably came from an old uranium mill in Edgemont. The Cheyenne is one of two major rivers in the area and has been contaminated for some years by the wastes from the old mill, which sit on the riverbank. But no one seemed to be able to prove whether the other wells were contaminated by uranium mining -- no one could trace the water underground.

Repeated attempts by the government to get clean water fell short as wells caved in or hit dry holes. There was talk of trucking water into the reservation, but for several years the whole thing has dragged on while people drink radioactive water.

The issues of water and energy are becoming closely tied in the popular mind. One reason has been the plan of Energy Transportation Systems, Inc. (ETSI) to use huge amounts of South Dakota water to move coal from Wyoming to the southern U.S. (see box) In addition, large coal-fired electrical plants in the area use billions of gallons of water each year.

Both the plants and the massive coal

mining going on in eastern Wyoming and Montana pollute water with salts, radiation and heavy metals -- including arsenic and lead. These substances are trace elements in the coal and are in mine run-off and the smoke spewed into the air by the electrical plants. The coal deposits themselves are often aquifers, so the mining that takes the coal also takes the aquifers, seriously damaging an area's ability to recover after mining is over.

The northern Great Plains contains 42% of the nation's coal and was called "America's energy ace in the hole" by former Secretary of Energy Schlesinger. The coal is stripmined at an estimated loss of \$1 million a year in agricultural production. A recent federal forecast is that coal mining in the area could triple over the next ten years, and Secretary of the Interior James Watt is helping speed up the process by "streamlining" coal leasing.

The major argument surrounding coal stripmining has been "reclaiming" the land after it is mined -- and reclamation is entirely dependent on the amount of water available. Currently on the Great Plains, over 87,000 acres are waiting to be "reclaimed," and 13,000 of those don't legally have to be reclaimed. Even for acres that are supposed to be reclaimed, enforcement will be next to non-existent, as Watt has also "streamlined" reclamation regulations and cut personnel.

Coal companies run campaigns to prove that reclamation is possible, showing photos of land that is "better than before," including pictures of the eastern U.S., where plentiful rain makes reclamation closer to possible. Sympathetic newspapers headline "Strip-mined land restored," saying that the land is better than before because it's less hilly. Mining advocates also say that the water shortage is solved by scientist who "manage" the available water.

Meanwhile, local ranchers point out that, with lots of fertilizer and water, a disturbed area can look real good two years after mining. But after the artificial help is removed, the disturbed acres sink to being worse than surrounding land.

Early this year, this grassroots knowledge was backed up by a six-year study by Montana State University, the first of its kind in western states. Studying "what is probably the most progressive reclamation operation in the west," the researchers found that reclamation cannot be completed within ten years. At another plot of land, part of a widely-publicized reclamation effort in the early 1970's, only two types of plants were thriving. The study concluded that the main "problem" was the weather -- not enough rain falls on the area.

The study held out hope for small areas of mined land -- after 50 or 60 years, they return to normal. But no one knows how long the process will take for the miles

and miles of land that are now being mined -- or even if it will happen. People do know that ravaged areas remain unproductive today from the western gold rushes of the 1850's and 1870's.

The Black Hills gold rush of the 1870's has been compared to the uranium rush of the 1970's. Like the gold rush, the uranium rush happened when the Dakota/Lakota were successfully claiming the Black Hills, once by war and once in the Supreme Court. Both rushes also happened with government help -- the gold rush came after Colonel George Custer publicized the presence of the metal in the area. The uranium rush happened mostly on land claimed by the National Forest Service and after government surveys showed where the uranium was. And the first uranium rush in the 1950's only happened because the U.S. government was buying the mineral.

Determined citizen resistance and the drop in the price of uranium over the last year have made most uranium companies temporarily leave the Black Hills. But when they return, they'll be dealing with people who know about the problems uranium exploitation brings, including the threats to the water supply.

UNDERGROUND WATER POLLUTION IS HARD TO STOP ONCE IT STARTS, NO MATTER WHAT THE SOURCE OF THE PROBLEM. PART OF THE REASON IS THAT THE CONTAMINATION MOVES SO SLOWLY THAT IT OFTEN ISN'T NOTICED FOR YEARS. ANOTHER PROBLEM IS THAT YOU CAN'T STOP THE CONTAMINATION ONCE IT STARTS -- IT'S SIMPLY IMPOSSIBLE TO PUT A PLUG ON AN AQUIFER. AND IT'S VERY DIFFICULT TO FIND THE SOURCE OF A PROBLEM. THE CAUSE COULD BE MILES FROM WHERE THE PROBLEM SHOWS UP.

Uranium exploration, mining and milling all cause water problems, both from contamination and from the use of large amounts of water. Uranium milling was called "the dominant contribution" to radiation exposure from the nuclear chain by a federal study on health effects of ionizing radiation.

But radiation problems begin with exploration, which pierces thousands of holes through underground rock layers. The holes let water flow between aquifers much faster, as people discover when their wells start draining. People in the Black Hills and Wyoming have lost wells because of exploration. A well in the southern Black Hills that drained during exploration and then refilled was heavily contaminated with a variety of toxic substances. Also, cattle in South Dakota and the Southwest have died from contact with uranium drill holes.

The nuclear industry defends itself by saying that they plug their holes -- or at least that they have been recently. But old drill holes, and even a few new ones in

the Black Hills were found left open, or plugged with a rock, or simply "camouflaged" with brush.

The hole plugging process, supposed to last indefinitely, has only been proved for 25 years, and the "proof" itself is questionable. To quiet local fears, the state of South Dakota reopened two sealed drill holes on the eastern flank of the Black Hills. They found that the seal under the surface of one hole wasn't there. It had either never been there or had melted. The other hole contained above-normal bacteria activity. So much for quieting people's fears.

Sometimes, technology can clean the water -- at a price. But usually, clean-up, even if the contamination can be stopped at the source, is simply a matter of waiting until natural processes clean the aquifer, and that can take centuries. Naturally-occurring contamination, of course, usually means people just have to find another water source.

In the case of radiation from uranium activities, the problem is very hard to detect. Radon, a major uranium by-product, dissolves easily in water, but is tasteless, odorless, and invisible.

It's easy to find examples of mining causing water pollution. All one has to do is go to a mine and look at the runoff from the mine entrance or from waste piles. To add to these basic problems, mineable uranium in the Black Hills is right in the Lakota and Fall River aquifers. So companies mine in the water source and directly below the important Dakota aquifer.

Storing tailings with water has reduced the amount of radiation leaked into the air, but it's also made the tailings more mobile. Tailing ponds have flooded, and dams holding the ponds have simply broken -- the most famous example of this was at the United Nuclear mill at Church Rock, N.M., in July of 1979. There have been over a dozen tailings-dam breaks in the U.S., including one in the Black Hills in 1962.

It's important to realize, though, that health is not the only thing threatened by energy activities and their effects on the water supply. People who promote energy "development" tend to downplay the fact

that the economic gains are short-term, lasting maybe thirty years. But if water becomes unusable, the long-term, land-based economy of an area suffers.

The economic worth of water hasn't gone unnoticed in official circles. As noted earlier, energy companies can afford to pay more for water than ranchers can. The state of South Dakota has been quick to capitalize on the possibilities.

Besides the multi-million dollar deal with ETSI (see box), in 1980 the state government began a lawsuit to try to "finalize" the water rights of tribes, companies, and individuals within the

state. Attorney General Mark Meierhenry, who started the project, is a close associate of Governor William Janklow, who won election on an anti-ALM platform. Meierhenry calls the lawsuit a way to "clear up" water questions but the project has many darker possibilities.

Meierhenry filed suit against all property owners west of the Missouri River, including five tribal governments. The suit forces people to prove how much water they currently use. Any water not claimed during this process could then be declared "excess" and sold to whoever could afford it. The idea, Meierhenry

says, is to protect South Dakota's water from other states and "jurisdictions" (read "Indians"). The suit could be used to limit future water use and could mean the loss of water rights that are customary but not written down. The state would also place Indian water under a state water management program.

Undoubtedly, tribal governments were quick to object. The Janklow administration has done lots of things to try to get state jurisdiction over reservations. The idea of limiting tribal water rights to current use is just a particularly devious move that violates both treaty provisions and U.S. court decisions. The tribes tried to move the suit to federal court, but the judge moved it back to state court in January, 1982.

South Dakota's approach to defining water rights may be "new" now, but other state governments are undoubtedly watching closely. If South Dakota manages to lay claim to a large amount of water and robs the tribes within the state of their water rights, other western states will certainly try to do the same.

The threats to water on the northern Great Plains are abundant and varied. Between pollution, consumption, and shipment to other areas, most people there

are being forced to sit up and take notice. The region's longstanding preoccupation with water -- or the lack of it -- certainly contributes to the vocal expression of current concerns. For people who have never been in the western United States, the degree of local distress might be hard to understand. It helps to realize that most streams only run part of the year, and a major river, like the Cheyenne, is seldom more than two feet deep and ten feet across.

While the exact types of problems may be unique to the West, the overall problem of water availability is widespread. In eastern states, chemical pollution is more common than radiation pollution. In farm states, nitrate pollution from fertilizers is a bigger problem. In the Southwest and California, having water in ten years is a major problem.

But all areas within the U.S. face some water problems -- as does much of the rest of the world. Nothing is more basic to human and other life than clean water. We've come to a point where people must not only take notice, but must take action for the well-being and eventual survival of life on the planet.

Lilias Jones

ETSI: AN OUTRAGE

by Lilias Jones

The normally provincial ranchers of Wyoming and South Dakota have been shoved into the middle of a controversy that involves water -- their lifeblood -- and that involves things they normally don't pay much attention to, like relationships between states, battles between huge energy companies, federal and Indian water rights, and the "latest" in energy technology. The reason is a plan by Energy Transportation Systems, Inc. (ETSI) to move coal mixed with water from northeastern Wyoming to Louisiana and Arkansas. The story has all the twists, deceptions, and excitement of a good novel.

The idea is to grind coal, mix it with water, and pump it through an 1800-mile, underground pipeline. The plan was hatched in response to Burlington Northern Railroad's near-monopoly on moving coal from the rapidly growing mines of Wyoming -- and in response to the huge profits the railroad was making.

The companies in the ETSI conglomerate are Bechtel, Atlantic Richfield (ARCO), Texas Eastern, Lehman Brothers Kuhn Loeb, and Kansas-Nebraska Natural Gas. Bechtel is a family-owned and very secretive corporation that is also the largest construction firm in the world. Casper Weinberger, Reagan's Secretary of Defense, was Bechtel's Executive Vice President. ARCO is the number eight oil company. Lehman Brothers are in-

vestment bankers. Kansas-Nebraska has a variety of energy ventures, including plans to develop a large uranium field in northwestern Nebraska.

Originally, ETSI said it needed 10,000 acre-feet of water a year to move the coal. An acre-foot is the amount of water it takes to cover an acre of land one foot deep, or the amount of water a family of five uses in a year. The company's needs have now risen to over 20,000 acre-feet a year.

The first thing most people heard about ETSI's idea was in 1974, when the company got a permit from the Wyoming Legislature to pump 20,000 acre-feet of water a year from wells on the South Dakota border. The Legislature gave ETSI the permit after the conglomerate promised that the water would be from the Madison aquifer and would not be suitable for drinking. Later, the legislators discovered that the water is good quality, and that many ranchers and towns use it for drinking and watering stock.

It took South Dakotans longer to get involved. The wells would border the southern Black Hills, a semi-desert area of cactus, cattle, and small pines. The outcry began with a few ranchers and a Rapid City water scientist and grew slowly.

In late 1980, the federal Bureau of Land Management issued the Draft Environmental Impact Statement (DEIS)

for ETSI's project. The Statement showed that pumping for ETSI's project would bring down groundwater levels over a large area of eastern Wyoming and western South Dakota. Wells that currently flow by themselves (artesian wells) would stop flowing, and ranchers and towns would have to install pumps to get water. Springs and streams would also have lower flows. ETSI's pumping from the Madison aquifer could also drain other aquifers because of underground water connections. Even so, the Statement minimized the problems by choosing which studies to believe.

People on both sides of the state border were outraged. But because the wells would be in Wyoming, South Dakotans had no legal protection from the effects on their water supply. Wyoming's agreement with ETSI provided some protection for residents of that state, but not much -- someone who lost a well could end up waiting a couple years for a replacement.

People were also upset because the DEIS said that using the existing railroads to move coal would be less environmentally harmful than digging up the ground and inserting a pipeline. And the Statement also said that the railroads would be more energy efficient than a pipeline. But the Bureau of Land Management still recommended building the pipeline, even though it would work to everyone's

disadvantage except ETSI's.

At the hearings that followed the DEIS, a rancher warned "The big corporations want to take the last drop of water." An insurance agent trumpeted that the Statement "doesn't identify our oppressors," and asked "Who is Bechtel? Who is Lehman Brothers?" And an owner of a tourist attraction warned that there would be many more energy projects needing water.

Faced with this across-the-board opposition to ETSI, Governor Bill Janklow decided it was a good idea to look like he was doing something about the problem. A strong supporter of energy development and a notorious Indian-hater, Janklow arranged to sell ETSI water from the Missouri River.

The deal, sealed in December, 1981, is that ETSI gets 16.3 billion gallons (50,000 acre-feet) of water a year in exchange for about \$1.4 billion over a 50-year period. ETSI would also build one of Janklow's pet projects, the West River Aqueduct, which would pipe the water from central South Dakota to Wyoming. Towns along the route would also get water from the pipeline, if they could afford to build connections between the pipe and the town.

The howls from other states along the Missouri River were immediate, and four are threatening lawsuits. The states don't object to the amount of water sold to ETSI, calling it a drop in the bucket, but to the trend South Dakota is setting. Indeed,

the idea of a state owning water that just happens to flow through it is a bit odd. Federal legislation has been introduced to require that all effected states approve water sales.

The sale has been approved by the South Dakota Legislature, but it also needs a contract with the Department of the Interior for water storage in the Missouri. This shouldn't be a problem -- Secretary Watt called Janklow's sale a "gutsy move" and said, "I support it 100 percent. I think that's the way the states ought to do it."

Two questions raised by opponents of the sale have been largely ignored. One is the right of the Dakota/Lakota to the Missouri River. The 1868 Fort Laramie Treaty reserved the entire river to the Dakota where it flows through what are now North and South Dakota. The Draft Environmental Impact Statement ignored the potential for conflict between ETSI's plans and Indian water rights. When the matter was brought up during hearings, the Final EIS merely said that those rights wouldn't be effected. Governor Janklow, of course, is an old hand at ignoring Indian rights.

As if the loss of the water wouldn't be enough, the reservoir from which "ETSI's" water would be drawn was created by flooding parts of the Cheyenne River and Standing Rock Reservations. A Lakota woman told me about the flooding, which happened in the decade after World War II. She said that the chances that the

reservations could become self-sufficient were seriously hurt, because the water covered the richest land.

The second question that is being downplayed by Janklow and other state officials is whether the sale of Missouri River water will keep ETSI from pumping water from the Madison aquifer. Janklow says the contract prevents ETSI from using Madison water unless Missouri water isn't available, and he says that the contract is very strong. Not many other people think the contract is that strong -- they say a pump could break in the pipe to Wyoming and ETSI could start using Madison water.

Wyoming is trying to be sure that doesn't happen. A bill in the Legislature would prevent Madison water from being moved out of state. And ranchers are planning to sue the company to force it to give up its Wyoming water pumping permit.

Meanwhile, ETSI goes merrily on its double-dealing way. The company says that now it will also try to get water from the Powder River, a tributary of the Missouri -- just in case. And some of the Missouri River water may be used by its subsidiary, Texas Eastern, for a second coal slurry pipeline. Before the South Dakota water sale was complete, ETSI said it only planned to use 40% of the water. Now, Vice President Ed Wasp says ETSI will use 60%. But state and federal governments go right on taking ETSI's word for things in a lovely show of either ignorance or cooperation.

By Liliias Jones.

WHEN THE WATER RUNS OUT

BY LILIAS JONES

Drain the plains? Not an unreal possibility at all -- in fact, it's been happening since World War II, when the "Great American Desert" became the "Agricultural Heartland."

The source of all this agricultural wealth is the Ogallala aquifer, possibly the biggest underground water storage unit in the country. The Ogallala lies under the panhandles of Texas and Oklahoma, western Kansas, much of Nebraska, and parts of South Dakota, Wyoming, Colorado, and New Mexico. And it is going dry at an alarming rate -- it is expected to be used up by the year 2000.

There are 78,000 farms in the area, and over 40% use irrigation. A traveler will notice huge, walking metal skeletons that water the land. Without irrigation, the land is marginal for farming, at best. But irrigation is pumping the Ogallala dry much faster than rain can replenish it. Previous study hasn't found "the answer," so now Washington has appropriated \$6 million to study some more.

The proposals to "solve" the problem are uniquely Euro-American. One fav-

ored plan is to pump water to the southern Plains through canals wider than an Interstate right-of-way -- from as far away as Montana. Those in authority seem to agree that the "solution" will be the Missouri River, but there's little question that this will only be temporary and that the solution will cause other problems.

For starters, irrigation canals that are open to the beating sun of the Plains lose huge amounts of water, by evaporation. Second, taking the amount of water from the Missouri that would be needed to save agriculture on the Plains would also mean taking between 1/3 and 2/3 of the total water in the River. This would make it unnavigable for long distances that are currently navigable.

Agriculture isn't the only planned use for Missouri River water. On the northern end of the river, energy companies have all sorts of plans to use the river and the waters that feed it. Energy Transportation Systems, Inc. (ETSI) has a contract with the state of South Dakota to take 16.3 billion gallons (50,000 acre-feet) a year for the next fifty years. Exxon wants to take 554 billion gallons (1.7 million acre-feet) to Colorado for its oil

shale ventures. And the coal mines and coal-burning electrical plants in eastern Wyoming and Montana depend on large amounts of water that would otherwise flow into the Missouri.

Add the anticipated tripling of coal activity in the northern Great Plains, and you haven't got a river left -- a trickle maybe, as has happened to the Colorado River in the southwest.

When there's no Ogallala aquifer and no Missouri River, then what? Will the Mississippi River be drained next? And what will be considered more important when the water runs out -- food or energy? Energy companies have more power than farmers now. Will that still be true in ten or twenty years?

BASKETS
disCONTINUED UNTIL
fURTHER NOTICE

NICARAGUA

The Indian Situation Worsens

The WASHINGTON POST reported on February 5 that thousands of Miskito Indians along the Honduran border have been removed by Nicaraguan troops in the largest military operation since the 1979 Revolution. Nicaragua began the "evacuations" in early January after 26 people, mostly Sandinista soldiers, were killed and 22 others abducted by guerrilla bands operating out of Honduras. The reports said that the guerrilla bands were made up of Miskitos and former members of ousted dictator Anastasio Somoza's National Guard.

About 10,000 INDIAN people from 20 villages were involved in the removal. Nicaraguan Vice Interior Minister Rene Rivas has stated that some Miskitos, he didn't know how many, had crossed the Coco River into Honduras before they could be "evacuated." He also asserted that Steadman Fagoth, a Miskito leader, was working with Somoza's National Guardsmen, and that he and several leaders of the fundamentalist Moravian Church are trying to foment an uprising by the Miskitos and to declare the Atlantic Coast region independent.

Nicaragua claims that no one was hurt during the operation, but states that "more

than 40" prisoners were being held at a converted high school in Puerto Cabezas. The province of Zelaya, where these removals have taken place, is isolated and the government has imposed a news blackout in the area. Foreign travelers have been forbidden entrance to the area.

Rivas stated that the trouble began last February (1981) after the Sandinistas expelled Fagoth from the state council and arrested him on charges that he had once offered to work as an informant for Somoza's security police. Several other Miskito leaders were arrested at the same time, and, Rivas said, the arrests "were taken as hostility toward the Miskito people." (For a Miskito version of these events, please see "An Interview with Armstrong Wiggins" in AKWESASNE NOTES, volume 13, no. 4.) Fagoth was released several weeks later. According to Rivas, Fagoth then began to encourage Miskito young people to follow him to Honduras and to the coastal town of Sandy Bay, north of Puerto Cabezas. These camps were eventually joined by Sandinista guardsmen who have been launching sporadic attacks against the Sandinistas from bases in Honduras since 1979.

Rivas said that attacks across the Coco

River began in late November and there were 11 attacks between November 22 and January 2. The attacks occurred in a 100 mile stretch between Waspan and the village of Raiti in a region so remote that the only access is by boat. In the town of San Carlos and at Bilwascarma, near Waspan, townspeople welcomed the attackers and rang churchbells in celebration. The Nicaraguan government counterattacked on December 28. The Sandy Bay "training camp" was attacked by helicopter and transport planes. Rivas said 30 guerillas escaped. There was no report of casualties. A few days later the government ordered the villages evacuated "to guarantee their food supply and protect them from the fighting."

On February 7 the WASHINGTON POST printed an editorial in which they questioned the Sandinista assertion that the villagers had cooperated and that there were no injuries. The POST thought that it was difficult to believe that 10,000 Indians willingly and without event abandoned their homes and followed the soldiers into holding camps near the isolated mining town of Siuna.

THE IMPERIALIST THREAT AND THE INDIGENOUS PROBLEM IN NICARAGUA

HISTORIC CHARACTERISATION OF INTERETHNIC RELATIONS IN NICARAGUA

The European conquest of America was the historical event which marked the beginning of racial and ethnic oppression. Salient economic motives underlay the Conquest: an incipient manufacturing industry required great quantities of raw materials at low costs; and precious metals from the New World were needed to sustain the primitive accumulation of capital which already had begun in Europe.

Beginning with the Conquest, the Europeans exerted a decisive influence over the destiny of America. Labor requirements for the extraction of wealth were tremendous. Conquistadores met these needs by imposing slavery on the indigenous population, denying them status as persons and creating a profound division among the members of colonial society.

This economic oppression of one people by another; one racial group by another extended into the political realm. Indigenous peoples were completely deprived of control over their own lives, and of the freedom necessary to realize the continued development of their cultures.

In Nicaragua the contradictions between metropole and periphery were particularly complex because two colonial powers competed to attain territorial hegemony. The Spanish colonized the Pacific coast and central areas of what is now Nicaragua, but confronted a direct challenge from the British, who exerted economic and commercial control from their possessions in the Caribbean.

On the Pacific side, Conquistadors enslaved the native inhabitants and sent them to work in South American mines. Within a short time the indigenous population was reduced drastically. Although the information from chroniclers is difficult to confirm, one account from Oviedo reports that in the first decades of the Conquest alone, more than 400,000 native peoples were exported from Nicaragua.

The caste structure of the colonial period gave impulse to a deeply ingrained racist ideology which penetrated every sector of the population. Despite their indigenous descent, mestizos assimilated the racist precepts and used them as a means to elevate their own socio-economic status. Eventually, mestizos achieved political control over the colonies as well. With the depopulation of indigenous peoples, the Spanish began to import African slaves, this exploitation of another group with distinctive racial phenotype further strengthened the identification of racial type with class position.

The colonialization of the Atlantic Coast followed a different pattern. Few British were interested in settling there, choosing instead the vast territories to the north where climatic conditions were much more favorable. As a result the British developed a system of indirect rule, whereby colonial mandates are carried out by local intermediaries. The British granted political and military support to one tribe or ethnic group, which in turn exerted control over the rest of the indigenous population and assured the defense of the territory. The corruption of

(The following is part of a paper presented by Comandante Guerrillero, William Ramirez, Minister of the Nicaraguan Institute for the Atlantic Coast who was head of the Nicaraguan Delegation to the United Nations Human Rights Commission meeting held in Managua, Nicaragua 14-22 December 1981. The paper was prepared for the Seminar of Recourse Procedures and Other forms of Protection Available to Victims of Racial Discrimination and Activities to be Undertaken at the National and Regional Levels. We are running this as a position taken by the Nicaraguan government. -- The Editors.)

a few indigenous leaders served to subjugate the bulk of the indigenous population.

In Nicaragua the British chose the Miskitu, providing them with firearms and establishing a local kingdom. This allowed the Miskitu to dominate and enslave many other Central American ethnic groups including the Sumu, the Rama, the Paya, the Lencas and Talamancas. The British turned the Miskitu leaders into oppressors and slaveowners. Later, when the indigenous population became insufficient for the labor requirements of plantations and sawmills, the British imported African slaves, adding another layer to the social stratification.

The system of economic exploitation gave rise to a political apparatus in which a few Miskitu families ruled the region, under the close scrutiny of the British. The remaining ethnic groups had little opportunity for continued cultural expression. The British also used the Miskitu as allies in their continuous wars against the Spanish. Although the wars benefitted the Miskitu little, the indigenous peoples served as an irregular army in defense of the interests of the British Empire.

For almost three centuries, Spanish dominated the Nicaraguan economy on the Pacific side, while British and North American interests prevailed on the Atlantic.

Nicaragua's independence, and the subsequent withdrawal of the British from Mosquitia, did little to change the class structures that had given rise to the accompanying systematic racial and ethnic discrimination. On the Pacific side a small unmixed elite of Spanish origin and Mestizos replaced the Spanish crown representatives in positions of authority, and these new oppressors destroyed nearly all the indigenous communities that had survived through the 19th century. Mestizo governments used legal means to coerce indigenous peoples to sell their communal lands, and to accept the norms of private property. These laws actually served the interests of the oligarchy, permitting the concentration of lands in their hands and integration into [the] world capitalist market. When the Atlantic Coast was incorporated into Nicaragua at the end of the 19th century, indigenous and Creole peoples who lived there became victims of the same racial hatred that had plagued native peoples of the Pacific.

A new foreign invasion, which occurred in 1910 led to the deepening of racial discrimination and the rapid destruction of ethnic cultural expression. North American powers took control of the Nicaraguan economy and even seized the government for 20 years leaving behind a corrupt political structure which was directly subservient to imperialism.

At the same time, North American transnational corporations penetrated the Atlantic Coast creating an imperialist enclave economy based on the extraction of natural resources. These companies employed indigenous and Creole peoples as wage laborers and imposed a system of apartheid within the confines of the banana, mining and lumber companies.

The Somoza government acted in complete accordance with the companies, choosing to defend the interests of imperialism rather than those of the costenos. Actually it was only with the rise of Sandino that the costenos began to participate with mestizos in the liberation struggle fighting in the Army for the Defense of National sovereignty. It was Sandino's dream to create large co-operatives along the Coco River, where most Miskitu live.

The FSLN acted as the vanguard in the War of National Liberation which overthrew the Somoza dictatorship and lay the groundwork for fundamental social change. This event provides the first opportunity in Nicaragua's history to destroy the class structures which underlie all racial discrimination. The Revolution gave rise to a strong anti-imperialist consciousness among its participants, and instilled in them a confidence that it is possible for a people to determine their own destiny.

Different social and economic conditions throughout Nicaragua naturally produced varying degrees of participation in the liberation struggle. In contrast with the Pacific, there were no widespread revolutionary activities on the Atlantic Coast. When the FSLN took power the found a very distinct political consciousness among Atlantic Coast inhabitants.

The Government of National Reconstruction began to operate, therefore, with the heritage of 400 years of colonialism, neo-colonialism and an unequal development between the coasts, accentuated by the previous 70 years of imperialist penetration. Part of this heritage is a set of prejudices which sees blond hair, blue eyes and fair skin as superior physical characteristics. Even a glance at Nicaraguan media confirms the prevalence of these stereotypes. This is what imperialism taught and continues to teach to our people. This is what Somocismo taught us: to denigrate all of the Nicaraguan people especially our indigenous and Creole brothers. This racist ideology served to reinforce the social stratification which had developed over the centuries. Still there are those who think that those who have Black and Indian traits are to be found in the lowest classes of society.

The Nicaraguan oligarchy was mainly of white origins, as were the groups in power during the Somoza dictatorship.

The legacy of the past produced not only racial prejudice among the Nicaraguan people, but ethnocentric attitudes as well. The colonial past separated the Atlantic and Pacific coasts allowing ethnic identities to consolidate independently. On the Pacific side a "Ladino" identity emerged. Various ethnic identities crystallized on the Atlantic coast were anglo-caribbean orientation merged with strong ties to an indigenous past.

The historic isolation of Atlantic from Pacific ethnic groups led to a mutual lack of cultural understanding between members of the two. This together with other factors, gave rise to the ethnocentric attitudes which exist today among both population groups.

Guided by the principles of popular democracy, the Sandinista Revolution

demonstrated its support for indigenous self-determination as a means to combat the racism and ethnocentrism of the past. Within a few months of the triumph the government had recognized the organization Misurasata, which means Miskitu, Sumu, Rama and Sandinistas working together.

From the beginning, Misurasata had a representative on the National Council of State, and had complete freedom to organize with status as one of the mass organizations in Nicaragua. For the first time an indigenous organization addressed the problems of the coastal people. In addition, the Revolution provided new hopes that the urgent economic and social needs of the region could be met. The government remained receptive to Misurasata in the first year and the organization grew rapidly.

However, its development was contradictory. On the one hand there was collaboration. The best example of this was the Alphabetization in languages which gave the opportunity to more than 12,000 indigenous and Creole peoples to learn to read and write in their mother tongue. However, at the same time the campaign was used by indigenous leaders to consolidate their organization and to influence members of the community who were not previously supporters of the organization. With this development emerged increasing attitudes of antagonism toward the government which can be explained by the following factors:

a) A relatively backward political consciousness of the Costeno population owing to the fact that this zone of the country had not participated in the revolutionary conflict.

b) A disastrous rate of unemployment resulting from the flight of North American capital and the subsequent closing of many companies. What's more, the large scale of these companies, the fact that they were left in a state of virtual bankruptcy; and current financial pressures from the U.S., make reactivation of the local economy exceedingly difficult.

c) A strong tradition of ethnocentrism on the part of both Atlantic and Pacific side inhabitants has created a permanent distrust between the two.

Over the first year, taking advantage of the Literacy Campaign, Misurasata grew in number of members, in demands and in power. It soon came to a point where their demands contradicted the government's national development strategy. For example, in January, 1981, the Misurasata plan of action included demands, for exclusive rights to 45,000 km of the coast, about 38% of the total national territory. At the same time, Misurasata leaders demanded political autonomy for this region. These plans neglect the interests of thousands of mestizos and Creole people who are not members of Misurasata. In addition, the demands impede the centralized management of natural resources which is necessary to assure that their exploitation benefits the whole nation. Finally, Misurasata's position left the organization open to imperialist manipulation, which could have resulted in the division of national territory. Misurasata's demands, therefore, directly threatened the Sandinista Revolution and placed the whole Central American revolutionary process in jeopardy. These fears were born out subsequently by the actions of Misurasata leaders, who became open counter-revolutionaries, enjoying the support of ex-National Guards in Honduras.

In February, 1981, Misurasata leaders were arrested by the government and given warning about the counter-revolutionary nature of the organization.

All were released shortly thereafter except Steadman Fagoth, the organization's leader, who faced additional charges of being an informer for the Somoza government. Fagoth was given conditional freedom in May, at which point he fled to Honduras to join the ex-National Guard thereby showing his true political colors. Since then he has been inciting





THIS ECONOMIC OPPRESSION OF ONE PEOPLE BY ANOTHER; ONE RACIAL GROUP BY ANOTHER EXTENDED INTO THE POLITICAL REALM. INDIGENOUS PEOPLES WERE COMPLETELY DEPRIVED OF CONTROL OVER THEIR OWN LIVES, AND OF THE FREEDOM NECESSARY TO REALIZE AND CONTINUE DEVELOPMENT OF THEIR CULTURES.

the Miskitu population to rebellion, urging them to come to Honduras to join the imminent invasion of Nicaragua.

These actions of Misurasata's leaders created uncertainty among the rest of the organization's cadres. At first the others issued a declaration condemning Fagoth and declaring support for the Revolution. Nevertheless, in September of this year, the same leaders issued a new document which slanders the Nicaraguan government, exonerates Fagoth, and encourages the Miskitu population to join in counter-revolutionary struggle.

Given these circumstances, the government found it necessary to withdraw official recognition of Misurasata. The organization's demands had become a threat to national sovereignty and its leaders had become distanced from the interests of their constituency.

Despite these events the government's commitment to the rights of indigenous peoples remains strong. This was confirmed in the declaration of principles issued in August of this year. This position is also apparent in the current government policy to develop community leaders who will form the basis of new forms of political organization.

THE POLICY OF THE REVOLUTION WITH RESPECT TO THE INDIGENOUS PEOPLES.

The recent revolution in Nicaragua has created, for the first time in the country's history, necessary conditions for a successful struggle against racism and ethnocentrism. The government is committed to the development of policy on various levels - economic, political, cultural, and ideological - which will advance the battle against racist ideologies and against the concrete manifestations of racism.

As we explained above, manifestations of racism in Nicaragua were created and perpetuated by English and North American imperialist occupations, and by the oligarchical government which ruled until the triumph of the Revolution. By eliminating social classes, the Revolutionary Government will also eliminate the fundamental cause of racism and ethnocentrism. Nevertheless, racist ideology has an independent existence as well, which must be attacked on the ideological level.

One of the principal means to combat racial discrimination, therefore, is economic development. If every Nicaraguan has access to a decent living standard, the material basis for racism will be destroyed.

In working toward this goal, the government has formulated a policy of anti-imperialism, and of independent economic development free from the imposition of foreign interests. This policy is clearly exemplified by such government measures as the nationalization of the mines and of foreign commerce, and the elimination of concessions to imperialist companies which plundered our natural resources. The Government also is working to raise the population's living standards, by implementing Agrarian Reform, extending credit to small scale producers, nationalizing the banking system, and orienting the economy in general toward the satisfaction of peoples' needs, in contrast with the former exploitative patterns imposed by imperialism.

In addition, the government is working to develop the country's productive forces. This policy has the goal of promoting an homogeneous development throughout the country, and consequently, ending the marked historical differences between the Atlantic and Pacific Coasts, and guaranteeing the increased worker productivity and income.

In the political realm the Popular Revolution's policy also is clearly defined. An ideological legacy of our colonial and neo-colonial past contains the prejudiced view that oppressed groups are incapable of controlling their own lives, and of managing their own communities. The Revolution upholds a firm principle to the contrary: Nicaragua's policies must be formulated for the people, by the people. This principle stands in direct opposition to racism and ethnocentrism, for it affirms the rights of the victims of these ideologies to participate in our nation's decision making, and to control their lives on the community level. The Revolutionary Government makes clear, therefore, the rights of all ethnic groups to organize themselves to defend their own interests. By means of participation in the Revolutionary process, the members of every ethnic group can control the destinies of their communities as well as participate in national and international politics.

Organization along ethnic lines will require government authorities to speak indigenous languages to facilitate communication on the local level. Finally, the government will guarantee the defense of all the national territory.

We emphasized above that the oppressive socio-economic structures of the past have limited the cultural expression of different ethnic groups. Racism has been the principal barrier to this expression. The Revolutionary Government is committed to providing every ethnic group an opportunity to develop its artistic and cultural expression. This in turn enriches the national culture as a whole. The government, therefore supports cultural and artistic creation in all areas and facilitates the technological assistance necessary for these arts to realize their full potentials.

The government also is committed to encouraging historical research which emphasizes the contributions of different ethnic groups to the heritage of all Nicaraguan citizens. The Literacy Campaign in indigenous languages is the first great achievement in this realm.

Finally, the Revolutionary Government will combat the daily expressions of racism and ethnocentrism. Special attention must be given to certain groups of Nicaraguans who have assimilated racist precepts espousing them unconsciously. Also we must work to make people more

aware of how imperialism attempted to prolong its hegemony by using a racist ideology to divide the Nicaraguan people.

Today the situation in Nicaragua becomes more difficult each day. The forces of North American imperialism want to repeat the history of British colonialism. The English manipulated Miskitu leaders convincing them to attack the Spanish and to enslave their own fellow indigenous peoples.

Today, forces of North American imperialism are manipulating the Miskitu leaders who are in Honduras, inciting them to carry out aggressions against the Nicaraguans, using Fagoth and his followers together with the remaining National Guards of Somoza to achieve this end.

Imperialism has promoted separation among the Miskitu. One group of the indigenous people is now undergoing military training in Honduras, and carrying out propaganda campaigns in the communities along the Coco River.

Miskitu people in Nicaragua are terrified about the future. Imperialist forces believe that it will be easy to take advantage of the problems created by Fagoth and his friends to turn our Atlantic Coast into a bloodbath, to pit brothers against brothers, Miskitu against Miskitu, indigenous peoples against indigenous peoples.

The triumph of the Revolution for the first time gave indigenous peoples the chance to achieve their just demands. This will occur not in the context of racist confrontation but rather through the co-participation of all Nicaraguan people in revolutionary process. The masses of indigenous people should have been guided by their leaders down the road to National Unity, respect for cultural and linguistic diversity, and so forth. The leaders, who were somocistas from the beginning, became traitors to their peoples' cause. Instead of finding solutions to problems from within the Revolution, the leaders have sown distrust and encourage confrontation.

The Sumos, the Creoles, and the Ramas are with the Revolution and form part of our national unity, and the Revolution respects their particular characteristics.

The leaders of these sectors respond to the interests of their people. This is not the case for certain Miskitu leaders such as Fagoth. This latter group forms part of the local and international counter-revolution and does not respond to the legitimate interest of the Miskitu people.

More important than any racial or ethnic consideration, the Sandinista Revolution has the profound obligation to defend what cost our people so dearly. More than 50,000 dead and 100,000 wounded, including hundreds of people mutilated by the war cannot be forgotten. It is the primary commitment of the Revolution to keep political power in the hands of the people, and to continue the process of social transformation that we have begun.

Territorial unity is an absolute principle, subject to no discussion of any kind.

It has been the dream of imperialist forces to separate the Atlantic Coast from the rest of Nicaragua. We will never permit this to happen. Our indigenous peoples are Nicaraguan citizens, and they have the same rights as the rest of us.

The threats of imperialism do not scare us. We do not seek war. We fought one war already to achieve a lasting peace. We will defend this peace, whatever the price of that defense may be. We make this commitment in the name of our martyrs, our heroes, our people and all the people of Central and South America. We make this commitment in the name of all oppressed peoples of the World. We will achieve our goals!



DECLARATION OF PRINCIPLES FOR THE DEFENSE OF THE INDIGENOUS NATIONS AND PEOPLES OF THE WESTERN HEMISPHERE

Preamble:

Having considered the problems relating to the activities of the United Nations for the promotion and encouragement of respect for human rights and fundamental freedoms,

Noting that the Universal Declaration of Human Rights and related international covenants have the individual as their primary concern, and

Recognizing that individuals are the foundation of cultures, societies, and nations, and

Whereas, it is a fundamental right of any individual to practice and perpetuate the cultures, societies and nations into which they are born, and

Recognizing that conditions are imposed upon peoples that suppress, deny or destroy the culture, societies or nations in which they believe or of which they are members, Be it affirmed that,

1. RECOGNITION OF INDIGENOUS NATIONS

Indigenous peoples shall be accorded recognition as nations, and proper subjects of international law, provided the people concerned desire to be recognized as a nation and meet the fundamental requirements of nationhood, namely:

- Having a permanent population
- Having a defined territory
- Having a government
- Having the ability to enter into relations with other states

2. SUBJECTS OF INTERNATIONAL LAW

Indigenous groups not meeting the requirements of nationhood are hereby declared to be subjects of international law and are entitled to the protection of this Declaration, provided they are identifiable groups having bonds of language, heritage, tradition, or other common identity.

3. GUARANTEE OF RIGHTS

No indigenous nation or group shall be deemed to have fewer rights, or lesser status for the sole reason that the nation or group has not entered into recorded treaties or agreements with any state.

4. ACCORDANCE OF INDEPENDENCE

Indigenous nations or groups shall be accorded such degree of independence as they may desire in accordance with international law.

5. TREATIES AND AGREEMENTS

Treaties and other agreements entered into by indigenous nations or groups with other states, whether denominated as treaties or otherwise, shall be recognized and applied in the same manner and according to the same international laws and principles as the treaties and agreements entered into by other states.

6. ABROGATION OF TREATIES AND OTHER RIGHTS

Treaties and agreements made with indigenous nations or groups shall not be subject to unilateral abrogation. In no event may the municipal laws of any state serve as a defense to the failure to adhere to and perform the terms of treaties and agreements made with indigenous nations or groups. Nor shall any state refuse to recognize and adhere to treaties or other agreements due to changed circumstances where the change in circumstances has been substantially caused by the state asserting that such change has occurred.

7. JURISDICTION

No state shall assert or claim to exercise any right of jurisdiction over any indigenous nation or group or the territory of such indigenous nation or group unless pursuant to a valid treaty or other agreement freely made with the lawful representatives of the indigenous nation or group concerned. All actions on the part of any state which derogate from the indigenous nations' or groups' right to exercise self-determination shall be the proper concern of existing international bodies.

8. CLAIMS TO TERRITORY

No state shall claim or retain, by right of discovery or otherwise, the territories of an indigenous nation or group, except such lands as may have been lawfully acquired by valid treaty or other cessation freely made.

9. SETTLEMENT OF DISPUTES

All states in the Western Hemisphere shall establish through negotiations or other appropriate means a procedure for the binding settlement of disputes, claims or other matters relating to indigenous nations or groups. Such procedures shall be mutually acceptable to the parties, fundamentally fair, and consistent with international law. All procedures presently in existence which do not have the endorsement of the indigenous nations or groups concerned, shall be ended, and new procedures shall be instituted consistent with this Declaration.

10. NATIONAL AND CULTURAL INTEGRITY

It shall be unlawful for any state to take or permit any action or course of conduct with respect to an indigenous nation or group which will directly or indirectly result in the destruction or disintegration of such indigenous nation or group or otherwise threaten the national or cultural integrity of such nation or group, including, but not limited to, the imposition and support of illegitimate governments and the introduction of non-indigenous religions to indigenous peoples by non-indigenous missionaries.

11. ENVIRONMENTAL PROTECTION

It shall be unlawful for any state to make or permit any action or course of conduct with respect to the territories of an indigenous nation or group which will directly or indirectly result in the destruction or deterioration of an indigenous nation or group through the effects of pollution of earth, air, water, or which in any way depletes, displaces or destroys any natural resource or other resources under the dominion of, or vital to the livelihood of an indigenous nation or group.

12. INDIGENOUS MEMBERSHIP

No state, through legislation, regulation, or other means, shall take actions that interfere with the sovereign power of an indigenous nation or group to determine its own membership.

13. CONCLUSION

All of the rights and obligations declared herein shall be in addition to all rights and obligations existing under international law.



DECLARATION OF PRINCIPLES OF THE POPULAR SANDINISTA REVOLUTION IN REGARDS TO THE INDIGENOUS COMMUNITIES OF THE ATLANTIC COAST

To: The people of Nicaragua, specifically to our Miskito, Sumu, Creole and Rama brothers

To: The people of the world.

WHEREAS: It's the responsibility of the Popular Sandinista Revolution to find a just and revolutionary solution to the legitimate claims and grievances of the indigenous population of the Atlantic Coast communities;

WHEREAS: The aspirations of the indigenous population of America, traditionally exploited, oppressed and subjected to the rigours of a brutal internal colonialist systems, are now aspirations contained within the Sandinista Revolution; aspirations which must not be betrayed,

WHEREAS: Both internally and externally, imperialism and local counter revolutionaries are now dedicated to the spreading of confusion, in order to discredit and obstruct the efforts which the Government of National Reconstruction, in conjunction with the genuine indigenous representatives, are now carrying out in order to try to find creative solutions to the difficult and complex problems, inherited from previous administrations.



THE FRENTE SANDINISTA DE LIBERACION NACIONAL (F.S.L.N.) AND THE GOVERNMENT OF NATIONAL RECONSTRUCTION

Hereby emit the following Declaration of Principles to serve as guidelines in our dealings with the indigenous minorities of the Atlantic Coast:

1. Nicaragua is but one nation. Territorially and politically, it cannot be dismembered, divided or deprived of its sovereignty and independence. Spanish is the official language of the country.

2. All citizens of Nicaragua, regardless of race or religion shall enjoy equal rights. The Revolution will actively fight and oppose all forms of racial, linguistic and cultural discrimination in the national territory. Wherever racism may sprout this government shall support the fight against it.

3. The Government of National Reconstruction, convinced of the need to rescue and nurture the different cultural manifestations, present in the national territory, will provide the Miskito, Creole, Sumu, and Rama communities of the Atlantic Coast with the means that are required to develop and enhance their cultural traditions, including the preservation of their languages.

4. The Popular Sandinista Revolution will guarantee and support the participation of the communities of the Atlantic Coast in all social, economical and political matters, which affect them, both regionally and nationally.

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5. The Popular Sandinista Revolution will not only guarantee but also legalize the ownership of lands on which the people of the communities of the Atlantic Coast have traditionally lived and worked, organized either as communes or as cooperatives. Land titles will be granted to each community.

6. The natural resources of our territory are the properties of the Nicaraguan people. The Revolutionary State, representative of the popular will, is the only entity empowered to establish a rational and efficient system of utilization of said resources. The Revolutionary State recognizes the right of the indigenous communities to receive a portion of the benefits to be derived from the exploitation of forestal resources of the region. These benefits must be invested in programs of community and municipal development in accordance with the national plans.

7. Because the Government of National Reconstruction is convinced that an improvement in the living conditions of the people can be brought about only through economic development, it will continue to promote all local and national projects that are necessary for the development of the communities of the Atlantic Coast.

8. In order to ensure the necessary representation in the social, political and economical institutions existing on the Atlantic Coast, the Popular Sandinista Revolution will support all patterns of organizations that are natural to these communities.

ISSUED IN THE CITY OF MANAGUA OF FREE NICARAGUA, ON THE TWELFTH DAY OF THE EIGHTH MONTH OF 1981, YEAR DEDICATED TO DEFENSE AND PRODUCTION.

FREE COUNTRY OR DEATH!



NICARAGUA : A PERSPECTIVE

There is a need to support the Nicaraguan people against U.S. imperialism and against colonialism generally. There is a need to stand in solidarity with revolutionary process. It is possible to believe that the Sandinistas are trying, according to their definitions, to act in a principled fashion as regards the problems on the Atlantic Coast. The dispute between the revolutionary Nicaraguan government and the Indians of the Atlantic Coast, however, is much more complicated than the usual questions surrounding principles of revolutionary struggle. In short, the conflict is not one which can be written of in black-and-white, revolutionary and counterrevolutionary terms. It is a conflict which will profoundly affect the future of revolutionary struggles in the Americas.

The Sandinistas have admitted that they have made mistakes in the past in their dealings with Indians. It seems possible that they are making mistakes in their Indian policy in the present. This is not to state that the Indians are unqualifiedly correct in their own position, only to note that the Sandinistas are not perfect all the time, that they do make mistakes. It is not a principled position to support their policies which are in error, and I don't think it is counter-revolutionary to disagree with even a revolutionary government when its Indian policy is disastrous to the Indians.

Careful study of the 1977 Declaration (which we have republished this issue) will reveal that the IITC and AIM endorsed the position (as articulated by numerous Traditional Indian governments) that Indian people have rights to all their aboriginal territories. Were the Sandinista position to be adopted by the U.S., the Black Hills would be automatically forfeited and the Sioux claim would be limited to the town limits of the villages now known as Pine Ridge, Wamabee, Calico, etc.. All the land in between the villages

would be claimed by the U.S. government.

The position taken by Comandante William Ramirez, Nicaragua's INNICA Minister, holds that the Indians rights are limited to their rights as Nicaraguan citizens. He is quite specific on this point. In a nutshell, he appears to offer the idea that assimilation is a revolutionary objective!

This position of the Nicaraguan government places progressive Indians in countries outside Nicaragua in a difficult position. The Indians of the Atlantic Coast assert their aboriginal rights to land, natural resources, hunting and fishing, self-determination, and so forth. Are the Indian people to support Miskito people in struggle for their aboriginal rights against puppet regimes like the Samoja government but then abandon them when their rights are threatened by revolutionary governments? Indians have consistently



held to principles which articulate the view that Indian people have a right to exist as distinct peoples, that they have rights to the possession of their lands and rights against massive development schemes forced upon them from external interests. Are those principles to be abandoned in Socialist countries? Are there no alternatives to extinction?

There are some promising and positive aspects of the Nicaraguan policies and practices regarding Indians, but the Declaration of 12 August 1981 contains points which represent such a glaring and sweeping denial of the most basic rights of an Indian people to the free and unhindered use of their lands and such a complete denial of their rights to their own natural resources that it is hard to believe that any Indian people who have carefully studied it would support it.

The issue is not simply a question of whether there are reactionary Miskito or other Indians in or exiled from Nicaragua. The issue involves support of the basic rights of the Indians to exist free of genocidal policies, including culturally genocidal policies. If an Indian people

depend on a hunting territory for their subsistence, and if the free use of that territory is uncategorically denied by a nation state, is not that nation state guilty of a policy of cultural genocide? Should Indian people support that policy? Should any progressive people support that policy?

In the United States, the strategy for dispossession of the Native peoples has frequently taken the form of enfranchisement. This has meant that Native people were offered U.S. citizenship in a move designed to deny them rights under treaties. If Indians are U.S. citizens, then they have no rights as Indians, so the argument goes. The purpose of this strategy is to find a rationalization which will separate the Indians from their claims to land or natural resources. Apparently,

Nicaragua is using the same argument against the Miskitus.

The Indian movement is a movement which seeks to establish and move forward the Indian rights to land, self-determination, culture, language, hunting and fishing, and against all forms of colonialism, including ideological and economic colonialism. Were the Sandinista Indian policy to be adopted by Canada, for example, the Indian movement in North America would be outraged. Canada would claim (as it very well may claim) that it has no obligations under treaties made between Great Britain and Indian nations, treaties which guarantee Indian rights. Indians would march on Washington and Ottawa by the tens of thousands and we would protest to our last breath.

When the same kind of policy is adopted by a revolutionary government - the first in the Americas with a substantial Indian population - it is urged upon us that we must be silent, that we are somehow morally and politically bankrupt if we take the position that the denial of Indian rights is a great wrong because that position has now become counter-revolutionary. It is a difficult logic to follow because it is a false and self-serving logic.

If the Sandinista government continues with an Indian policy which gives no more than lip service to the rights of the Miskitu to a continued cultural existence it will build a wall between leftist national

human beings or merely beasts of burden who could legally and morally be enslaved. The racist argument of the day was espoused by the Spanish philosopher Sepulveda who argued that the Indian was not properly a human, that the Indian was no more than a brute, an animal lacking the mental capacity to achieve what they called "grace." That formed the rationale upon which Indian slavery was justified. The question of whether the Indian had a right to a continued cultural existence was never seriously considered by the Spanish conquerors. They were spreading the word of God and the power of the Spanish Crown in the 16th century, and the Indians had only the right to accept their version of reality or to die by the sword.

The modern counterpart to that argument involves whether or not Indian peoples are legitimate peoples with a right to self-determination and a continued existence. The argument that Indians are, at best, citizens of a nation state and that their means of survival is rightfully at the disposal of that nation state is simply the modern language which expresses the same objective. The revolutionary government of Nicaragua has not considered these apparent contradictions carefully enough.

At the same time, Nicaragua is facing a serious challenge to its own continued existence. No progressive people would

rights of the Nicaraguan people in determining the course of development in the Atlantic Coast. That path can lead to the forging of a revolutionary alliance which makes clear to the Indians that the support of the Revolution is a support of their own interests, while also offering to the Revolution a powerful ally in the Atlantic Coast peoples.

Those are the issues which need to be addressed. Revolutionary governments, like Indians, make mistakes. Parts of the Sandinista Indian policy are in error, and no doubt some of the positions taken by some of the MISURASATA Indian leaders have been in error also. The Indian organizations in the North are caught in a quandary also, because to criticize a Revolutionary government which is under pressure and potential attack from the Right invites accusations that they have been bought off by counter-revolutionary forces. The question is: is the defense of Indians rights a counter-revolutionary position?

The Miskitus are a colonized people. They have been affected by centuries of colonization. The Sandinistas are also a colonized people, and even in revolutionary struggle they are victims of some of the unconscious effects of that colonization. The experiences of the two are historically different, but both express the objective of decolonization. The Miskitus have leaders who are presently in conflict with Managua whose primary objective is the de-



ARE THE INDIAN PEOPLE TO SUPPORT MISKITU PEOPLE IN STRUGGLE FOR THEIR ABORIGINAL RIGHTS AGAINST PUPPET REGIMES LIKE THE SAMOZA GOVERNMENT BUT THEN ABANDON THEM WHEN THEIR RIGHTS ARE THREATENED BY REVOLUTIONARY GOVERNMENTS?

liberation struggles and Indians in Central America which no amount of rhetoric about revolution can penetrate, and without the support and involvement of Indians, liberation struggle in Latin America is an impossibility. The support of this policy forces the Nicaragua Indians into a corner from which there is no escape. To embrace the Sandinistas is to surrender all their rights to exist in their homeland, and to oppose it is to risk falling under the influence and manipulations of the CIA and the Somocista people.

The Sandinistas have gone to great lengths to convince the world community that the Miskitus can have no politics which look to the interests of the Miskitu people. According to their rhetoric, the Miskitu situation can only be viewed in the light of the struggle between East and West, between revolutionaries and counter-revolutionaries. They have not dealt with the reality that Sandinista Indian policy differs from what they would describe as racist Capitalist Indian policy only in the rhetoric by which it is justified. Racism in the modern world began with the arrival of Europeans in the Americas and its philosophical and political basis was argued and established during the arguments at Valladolid Spain in 1541 which centered on whether or not the Indians possessed souls. It was a feudalistic argument, one which centered on the question whether Indian people were really

argue that the Indian people would be better off were the Sandinista government to fall and be replaced by a reactionary regime. Nicaragua has moved to create a de-militarized zone in the area of the Honduras border, and it seems highly unlikely that their military leaders will change that strategy soon. They are faced with the very real antagonism of a U.S. government which is willing to invent and support the activities of client states in support of counter-revolutionary forces whose objective is the overthrow of Sandinista rule in Managua. That is not the objective of the Miskitu people, but it is definitely the motivation of such governments as that of Argentina which has apparently offered arms and military assistance of a unnamed sort to the Nicaraguan people now in Honduras.

At this hour, Nicaragua appears set on a course which finds her defending Indian policies which are identical to the Indian policies of reactionary countries throughout the Western Hemisphere, and which finds the Miskitu people struggling for their country with support from some of those same reactionary countries. The only way out of that dilemma for both the Sandinistas and the Miskitus would involve a compromise which would include Sandinista recognition of the existence of Indian nations and rights to determine the course of development of their country. The compromise could also recognize the

colonization of their people. Such people are simply not counter-revolutionaries, not even when they find themselves at odds with revolutionary governments. The Miskitus confront the immediate problem that they face a form of colonization which originates in Managua, and Managua faces a life-and-death struggle against American imperialism. Both the Miskitu and the government could begin a dialogue with the agreement that each is moving toward decolonization.

The Sandinistas and the Miskitu leadership need to negotiate the terms of a relationship which meets the needs of both. Whether that will happen remains to be seen, but Managua should understand that the Miskitu position is not by definition a reactionary one, and the Miskitu need to analyze their relationship to the forces of the right in light of the objective of decolonization. It is absolutely critical that both parties meet each other half way, and that a dialogue begin to take place which can ensure peace and cooperation on the Atlantic Coast.



THE ANCIENT INDIAN LAND CLAIMS SETTLEMENT ACT

STEALING INDIAN LANDS IN THE 1980'S

A bill which is a legislative plan to block Eastern Indian land claims from winding up in the courts has been introduced in Congress on February 9 (1982) by Senators Alfonse M. D'Amato (R-NY); and J. Strom Thurmond (R-SC) and by Representative Gary A. Lee (R-NY). Tentatively entitled The Ancient Indian Land Claims Settlement Act, the bill is intended to prevent Indians from suing for the return of lands for which claims arise under the 1790 Non-Intercourse Act. Under provisions of the bill, Indians would be entitled only to damages based on the market value of the land at the time it was taken from the Indians.

Many of the claims arising from actions of states in violation of the 1790 Act which resulted in the illegal taking of Indian lands took place between 1790 and 1845. The assessed land values at the times sometimes amounted to pennies an acre. Some of the same land is now considered to be very valuable real estate. Some of the Indian peoples, notably the Cayugas, lost all their land as a result of these takings.

The original draft of the bill sought to resolve all Indian land claims in New York, Connecticut and South Carolina by simply extinguishing or wiping out the Indian land rights. Connecticut has since withdrawn its name from the bill. It was drafted without Indian involvement and has absolutely no Indian support.

A memo circulated by the prestigious Indian Law Resource Center in Washington D.C., stated that the bill must be opposed and condemned for the following reasons:

1. The bill would destroy present Indian legal rights to land, and would violate ratified treaties with the United States, and would dishonorably violate the most basic Indian rights. The bill literally steals land from Indian nations and tribes and approves earlier thefts and frauds. This confiscation of land rights is in complete violation of treaties which the United States has made guaranteeing land rights. To return to taking Indian land is shameful and contrary to national and moral principles.

2. The bill would deny Indians Due Process of Law. This bill is not an act of eminent domain for public purposes, and it does not provide for present-day fair market value compensation. Indian people would be subject to arbitrary and jerry-rigged proceedings. The bill is clearly unconstitutional for this reason.

3. The bill is discriminatory and denies equal protection of the law because it is aimed solely at taking land rights from Indians for the benefit of others. No other people in the United States could be treated this way, especially not a racial minority. The bill is unconstitutional for

this reason.

4. The bill will lead to many more years of litigation and may result in multi-billion dollar liability on the part of the United States for the taking of Indian lands. The bill won't effectively stop the court cases because of the serious constitutional questions raised.

5. This bill would suddenly close the courts to Indian land rights cases and unfairly change the rules in the middle of ongoing cases which Indian people have only recently been able to bring to court after generations of being barred from legal remedies. Now, just a few Indian nations have been able to prove their rights legally in court under United States law, this bill would destroy those rights and throw the Indian people once again out of court. These are not "ancient" claims -- they are no more ancient than the United States law, the Constitution and the treaties that establish and protect Indian rights. This bill is an inept and unfair effort, drafted in secret without the consent or involvement of Indian people.

6. The bill would violate fundamental human rights of Indian people. The bill would violate the high principles established by the Universal Declaration of Human Rights and the Helsinki Final Act to which the United States has ascribed. This bill would be an embarrassment to the Congress, to the Administration, and to the nation as a whole.

7. The bill will not settle the Indian claims involved. History has shown that such claims never die and never dim until they are justly and honorably resolved. This bill does not do that.

block PASSAGE of this bill

Early reports indicated that the Reagan Administration was going to support the bill. Just before the bill was to be read in Congress, Connecticut Governor Wm. A. O'Neill issued a statement which read, in part: "... This legislation seems contradictory to our state's policy toward the Indian people." Shortly after that the Administration suddenly was saying they didn't know if they were going to support it or not. The Office of Management and Budget, which had originally participated in the development of the bill, was saying in mid-February that they have no plans to approve the monetary provisions of the bill. Senator Moynihan's office was saying that the Senator neither supports or

opposes the bill. Administration support is critical. Without it, the bill will probably die in committee.

The sponsors of the bill have other problems. They apparently failed to consult House Interior committee Chairman Morris K. Udall (D. Ariz.) before announcing their plans. Udall has said that he favors settling each claim individually. A Udall aide has stated that Representative Udall would probably have real "reservations" about the bill. (No pun intended.) Senator Moynihan felt that Mr. Udall's support was critical to passage of the bill. He made a statement to the effect that the bill has caused "great concern" to a congressman he declined to name but who is believed to be Mr. Udall, "without whose cooperation nothing is going to happen."

The bill has problems probably because of prompt action taken by some Indian people and their supporters in the early stages of its birth. Observers in Washington say that Indian people should not be too smug about its hoped for defeat, however, because if the Administration does another about-face and comes out strongly in favor of the bill, its chances of passage will improve dramatically. The same administration which has cut off food stamps to many of this country's needy, won't have much trouble finding a way to attack Indian people, and this bill is one which is certain to appeal to them in the weeks ahead. What is needed at this time is an intense lobbying effort to block passage of this bill.

Address letters to:

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Washington, DC 20510

Sen. Strom Thurmond
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Sen. Ernest F. Hollings
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Senate Select Committee
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Mr. David Stockman
Office of Management and Budget
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President Ronald Reagan
The White House
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House Committee on Interior
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Rep. Morris Udall
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THE FAILURE OF INDIAN RIGHTS ADVOCACY

BY Steven M. Tullberg and Robert T. Coulter



With increasing frequency Indians are asking why the lawyers representing Indians in court battles over Indian rights have had such little success in gaining legal protection for the most important Indian rights, the sovereign rights to self-determination, and to ownership and control of Indian land and resources. A close look at some of the Indian rights advocacy which is taking place in the courts today suggests that lawyers representing Indians are in significant part responsible for this failure.

Many had hoped that the past two decades of Indian activism in the United States courts would lead to a new era in which these fundamental rights would finally be given the strongest legal protection available under federal law and the United States Constitution. Instead, the Supreme Court has issued a series of decisions which dramatically undercut Indian sovereignty and which reaffirm broad, unrestrained powers of Congress to expropriate Indian property. The Supreme Court has even gone out of its way to announce the chilling news that the power to terminate Indian governments is still "legal" under United States law, and that Indian land rights and land claims are not protected by the Fifth Amendment to the United States Constitution from confiscation by the federal government.

The Supreme Court has refused to repudiate the unbridled political power which the law of the United States has permitted the Congress and the Executive to exercise over Indians and all their affairs for well over a century. Rather, the Court has recently again upheld that racially discriminatory power in language which would suggest that almost nothing has been changed since the time when the Court first upheld the "legal" power of Congress to abrogate Indian treaties (Lone Wolf v. Hitchcock, 1903). The Burger Court has reaffirmed the law of the 1950's Termination era which allowed Congress to deny the self-governmental rights of Indian nations and tribes, and the Court has resurrected Tee-Hit-Ton Indians v. United States (1955), the decision which held that aboriginal Indian homelands are not protected by the Constitution. In a 1978 opinion authored by Justice Thurgood Marshall, the Supreme Court stated that "Congress has plenary authority to limit, modify or eliminate the powers of local self-government which the tribes otherwise possess." That quote from the case of Martinez v. Santa Clara Pueblo, was in the context of a decision by which the Pueblo's laws governing its own membership were upheld only, the Court determined, because Congress had not yet taken away the Pueblo's residual

sovereign right to make such laws. This anti-Indian notion, that one sovereign (the United States) has the legal power to strip other sovereigns (Indian tribes and nations) of their fundamental rights and powers, is today more firmly cemented in United States law than ever before.

What role have lawyers for Indians had in developing this "hand-out" theory of Indian sovereignty? Sadly, a large role indeed. Lawyers representing Indians at every level have played a part in undercutting their own Indian clients' fundamental rights. Trial court lawyers routinely approach Indian sovereignty with shuffling feet, downcast eyes and hat in hand, and some still talk of Indians as "wards of the federal government." Even some of the most prestigious lawyers who have argued Indian rights cases before the Supreme Court have made arguments which are almost the same as those of their adversaries on certain crucial issues.

In the adversary system of justice, the arguments made by the lawyers for each side are, of course, critical to the outcome of the case. The courts generally pick and choose only between the arguments that are made. Seldom does a court give that which is not requested, and if the lawyers for the two sides agree on an issue -- if one lawyer concedes a point made by his opponent -- the court almost always accepts that agreement and incorporates it into the final decision.

A review of some of the transcripts of oral arguments made before the Supreme Court in Indian rights cases decided during the past few years shows that lawyers representing Indians have time and again given away at least half of the legal battle and have actively favored a "hand-out" theory of Indian sovereignty which helps erode Indian rights. In short, lawyers who are supposed to be representing the Indian position have repeatedly conceded that the United States government has virtually unchecked political power over Indians, Indian governments and Indian property. It is not likely that these concessions have been authorized by the Indian peoples whose cases were being heard, and they certainly have not been authorized by all the other Indian tribes who find the concessions used as precedents to deny their rights as well.

Consider some of the arguments made in the Martinez case during the Santa Clara Pueblo's Supreme Court fight to maintain its sovereign right to make and enforce its own membership laws. The lawyer for the Pueblo's opponent argued that Congress had, in its 1968 Indian Civil Rights Act, taken away the sovereign immunity of the Pueblo which would otherwise have protected these Indians from being forced into the federal courts to defend the Pueblo's membership laws. The lawyer for the Pueblo argued that Congress had not in fact intended to take away that Indians sovereign immunity, but he did not challenge Congress' power to do so. There is no apparent reason why that concession was made. That totally unnecessary concession of federal power was used by the lawyer opposing the Pueblo's membership ordinance in his argument to the Supreme Court:

ATTORNEY FOR MARTINEZ: Now, returning to the sovereign immunity question, the terms of the Act are mandatory on their face. The Act is a limitation on the tribes themselves. Congress, it's conceded, has plenary power to limit the Tribes in this way. Defendants have conceded that ... the power of Congress to do this isn't at issue; it's only a question of what Congress did do.

In the same 1977 Supreme Court argument, the lawyer for the Pueblo made other remarkable concessions of federal power over his clients when he was asked about the legal power of the Secretary of the Interior to overrule the tribal courts, to impose the Indian Civil Rights Act on Indians, and to invalidate the Pueblo's membership ordinance:

QUESTION BY THE COURT: Well, could you tell me, would a Tribal Court have any authority to invalidate a Tribal Ordinance on the grounds that it was inconsistent with the Civil Rights Act?

ATTORNEY FOR THE PUEBLO: If they did not, the Secretary of the Interior would definitely have it.

QUESTION BY THE COURT: But if an Indian Tribal Court concluded that the federal Civil Rights, Indian Civil Rights Acts were violated, would not the federal (sic) Tribal Court have a duty to obey the federal statute?

ATTORNEY FOR THE PUEBLO: I think you're correct on that, Your Honor ... Providing Congress has so indicated.

• Are Lawyers To Blame ? • \$ • ?

QUESTION BY THE COURT: Could the Secretary of the Interior invalidate this particular ordinance?

ATTORNEY FOR THE PUEBLO: I think that that's probable.

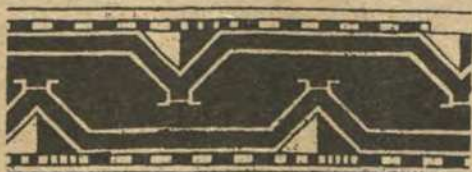
These concessions by the lawyer representing the Indians helps explain how Supreme Court Justice Thurgood Marshall, a noted former civil rights lawyer, came to

write the outrageous language in the Martinez decision which reaffirms the plenary power of Congress to limit, modify or eliminate Indian self-government. There had simply been no contest presented to the Court about that most important Indian rights issue.

The infamous Supreme Court decision of Oliphant v. Squamish Indian Tribe (1978), denying Indian jurisdiction over non-Indians committing crimes on Indian territory, is also partially explained by a review of the arguments which the lawyers made to the Court. In opening his argument the lawyer for the Suquamish Tribe first argued that Congress and not the courts should be making the decisions about criminal jurisdiction on Indian lands. He did not argue that Indian jurisdiction over criminal activity on Indian land was a right and power which neither Congress nor the federal courts could deny. When the question of the extent of Indian sovereignty was pressed by one of the Supreme Court Justices, the same lawyer for the Indians gave a most remarkable answer which suggested his clients had no real sovereignty and which made the task of his opponent, Washington State Attorney General (now U.S. Senator) Slade Gorton, markedly easier:

QUESTION BY THE COURT: To say the Tribe possesses an attribute of sovereignty does not necessarily mean it possesses all attributes of sovereignty.

ATTORNEY FOR THE SUQUAMISH: That is correct. Most attributes, what we call real sovereignty, have been given up by Indian Tribes. There is no question about it. Indian Tribes cannot mint money. They cannot enter into treaties with other nations. But this Court has consistently held that there are powers that have not been taken away.



The Suquamish also were given the very mixed blessing of having the United States government (the self-proclaimed "trustee" of all Indians and all Indian lands) on its side in that case. The argument by the attorney from the U.S. Solicitor General's office greatly compounded the Indians' problems because it had much in common with the arguments which were made for the opposing, non-Indian interests:

ATTORNEY FOR THE UNITED STATES: History and nearly two centuries of legal authority demonstrate that the Tribe's sovereignty is subject to the greater sovereignty of the United States and in the exercise of its own sovereignty the United States has established a special relationship toward and a unique responsibility to the Indians in the United States, but we do agree with petitioners (the non-Indians), Mr. Justice Stewart, that tribal sovereignty can be and in many respects has been circumscribed by the United States so to that extent it is not a full sovereignty.

QUESTION BY THE COURT: It was tribal self-government but it was not territorial sovereignty was it? Ever?

ATTORNEY FOR THE UNITED STATES: They (the Indians) did not view territories belonging to particular individual tribes -- that is a concept to which the European settlers quickly educated them.

QUESTION BY THE COURT: Correct.

QUESTION BY THE COURT: You said they did not have a sophisticated concept of land ownership ... Did the United States recognize any land ownership rights to the Indians, other than those granted by treaty? ...

ATTORNEY FOR THE UNITED STATES: Well, no, they did not.

Again the Court was told that Indian sovereignty is only a remnant or a vestigial organ which Congress has yet to completely remove from the body politic. Making matters even worse are the ill-informed and sweeping statements denying that Indian tribes and nations had a concept of ownership of separate territories before the arrival of Europeans. What, one might ask, were the first Indian treaties all about?

The Supreme Court's decision in the case of Sioux Nation v. United States (1980) has not received the almost universal condemnation from the Indian community which has been heaped upon the Oliphant decision. The mixed response to the Sioux Nation decision is due partly to the fact that the Supreme Court finally set the historical record straight and acknowledged that the Black Hills had been stolen from the Sioux and partly because



Fifth Amendment compensation was awarded for the theft of this treaty-guaranteed, recognized Indian title land. But only some of the commentators have noted that the Sioux Nation decision has upheld the power of the United States government to make such thefts of Indian land in the first place. The first part of the taking clause of the Fifth Amendment, which provides that the government may not take private property except for a legitimate public purpose by use of its eminent domain power, was not applied by the Supreme Court to rule the initial seizure of the Black Hills an unconstitutional act. The constitutional argument is now being made for the first time by the Sioux lawyer representing the Oglala Sioux Tribe in a new law suit which rejects the offered money damages and which seeks return of the Black Hills instead.

Inexplicably -- and certainly without the approval of the Sioux people -- the lawyer representing the Sioux Nation in the Supreme Court argument of the Sioux Nation v. U.S. case conceded that the United States government had the lawful power to abrogate the Fort Laramie Treaty and to take the Black Hills from the Sioux people, even though the purpose of taking was to give that Indian land and its gold to non-Indians. (Such taking would obviously not meet the "public purpose" test of the Fifth Amendment.) All the Constitution required, he argued, is that the Indian people be given monetary compensation, with interest, whenever Indian land is taken by the federal government:

QUESTION BY THE COURT: Under a treaty a reservation is set up for an Indian tribe and at sometime later the Government, the Congress just says, "Well, we think that reservation is too big. We are going to cut it in half and open the rest up." So it just cuts it in half and redraws the reservation.

Now, is that both a breach of the treaty or is it a taking, or both?

ATTORNEY FOR THE SIOUX: It is a breach of the treaty and the United States has the power to breach the treaty.

QUESTION BY THE COURT: That is Lone Wolf.

ATTORNEY FOR THE SIOUX: That is Lone Wolf.

QUESTION BY THE COURT: RIGHT.

ATTORNEY FOR THE SIOUX: Lone Wolf tells us that Congress -- if Congress determines that the reservation should be cut in half, Congress can come in and do it; it can do it without the consent of the Indians and it can do it in violation of the treaty. It is also a taking and when Congress does it, it has to pay for it.

Going even further, the attorney for the Sioux conceded that the United States government, and not his Sioux clients, was the actual owner of all Sioux lands and all other Indian lands as well:

QUESTION BY THE COURT: And the question such as in the Decoteau case and others as to whether or not the reservation has been terminated is a question of congressional intent. But here this was not an Indian reservation, this was -- this belonged to the Sioux Nation, didn't it?

ATTORNEY FOR THE SIOUX: Well, this -- all reservations, the beneficial ownership and all the incidence of ownership are in the Indian tribe. The bare legal title is in the United States.

QUESTION BY THE COURT: And that was true here, too?

ATTORNEY FOR THE SIOUX: Yes.

QUESTION BY THE COURT: It was.

QUESTION BY THE COURT: But this was more than aboriginal title. Even if originally it had aboriginal title it was recognized by treaty and it constituted a reservation.

ATTORNEY FOR THE SIOUX: That is correct, it was recognized by treaty twice over.

QUESTION BY THE COURT: It was Federal land?

ATTORNEY FOR THE SIOUX: It was a Federal Indian reservation, recognized title and that --

QUESTION BY THE COURT: That title was in the Sioux Nation and not in the Federal Government.

ATTORNEY FOR THE SIOUX: Well, all of the incidence of ownership; if you want to say who has all the incidence of ownership, it is the Sioux Nation. Where does the bare legal title rest, it is in the United States as it is with respect to all Indian lands. That is part of what establishes the trust.

But when the United States takes it -- and Shoshone makes this quite clear -- when the United States takes it, the Indians have a 100 percent interest for purposes of determining just compensation. You value it at full value.

Rather than arguing that the Sioux actually held title to the land and rather than arguing that the Sioux land rights should be constitutionally protected from confiscation by the federal government just as all other property is, the lawyer for the Sioux focused on the objective of money damages. (Ten percent of the

damages awarded to the Sioux have gone to the lawyers as attorneys' fees -- over ten million dollars.)

In the same Sioux Nation case the lawyer for the United States agreed that the federal government had the legal power to abrogate the Sioux treaty and to take the Black Hills. The only disagreement was over the question whether the Fifth Amendment to the Constitution required the federal government to pay compensation. Here the United States, again as self-appointed "trustee" or "guardian" of Indians and Indian property, made the perverse argument that the taking of the Black Hills had been for the Indians' own good. In the United States written brief to the Supreme Court the government's position is blatantly racist:

"The Court long recognized that the Indian tribes have been incapable of prudent management of their communal property, and that the United States must undertake this duty as fee owner of tribal lands and pursuant to its power to deal with Indian affairs. A disposal of tribal property in the discharge of this responsibility to manage the property for the tribe's benefit is an act on behalf of the tribe and, in effect, a disposal by the tribe. A proper exercise of this power is no more a taking than would be a sale by the tribe itself, were it freed from historical disabilities. The Court of Claims was in error in declining to so treat the Act of 1877 by which the Black Hills were severed from the Great Sioux Reservation."



The same Deputy Solicitor General who penned those degrading words made equally scandalous statements during the oral argument in the Supreme Court:

QUESTION BY THE COURT: Is there any relationship of sovereign to sovereign between the United States and any group of white people within our boundaries?

ATTORNEY FOR THE UNITED STATES: I think --

QUESTION BY THE COURT: And the United States is not and never has been a trustee for any category of white people, have they?

ATTORNEY FOR THE UNITED STATES: That is --

QUESTION BY THE COURT: Comparable to the Indian relationship?

ATTORNEY FOR THE UNITED STATES: But that trustee relationship, Mr. Chief Justice, carries both obligations but also unusual powers, the power to dispose (of Indian property) against the will and without exercising the power of eminent domain --

QUESTION BY THE COURT: There is no such power, comparable power over any white category?

ATTORNEY FOR THE UNITED STATES: That is --

QUESTION BY THE COURT: These were all results to treaties in the first instance, were they not, these rights and duties and powers?

ATTORNEY FOR THE UNITED STATES: Well, this Court has held that independently of treaties the inherent situations of the Indian place them within the protection of the United States.

QUESTION BY THE COURT: The Constitution itself recognized Indian tribes as sovereigns, does it not?

ATTORNEY FOR THE UNITED STATES: Yes, but the Constitution perhaps also recognized the dependent status of Indian tribes, their inability to alienate their land which accordingly, if it must be done in their interest, may occasionally have to be done against their will by their guardian.

ATTORNEY FOR THE UNITED STATES: I think the Court can find that the dealings were not wholly honorable and that results in a moral claim which would not bear interest and yet find because that is judged from hindsight, and yet find that Congress was in good faith seeking to benefit the Sioux tribe at the time and accordingly there was an exercise of the Indian power and not of the eminent domain power. And, accordingly, no taking with the meaning of the Fifth Amendment.

As strange and illogical as it may be, the argument made by the United States is that it has extraordinary legal powers to seize and dispose of Indian lands -- powers which it does not have over any non-Indian lands -- because Indian nations and tribes are sovereign. An undefined and apparently never ending "guardianship" or "trusteeship" is said to justify the exercise of that power when the federal government decides it is in the best interest of its Indian "wards" who are presumed to be incapable of determining their own best interest.

Given the arguments presented to the Court, and the broad concessions of federal ownership and power over Indian lands made by the lawyers for the Indians, it is no surprise that the Sioux Nation decision of the Supreme Court expressly approves of Tee-Hit-Ton v. U.S. (1955), the Supreme Court decision which categorically denies constitutional protection (including the Fifth Amendment right to compensation) to aboriginal Indian homelands which have not been expressly recognized by Congress through treaty or statute for permanent Indian occupancy. The arguments made in Sioux Nation were closely in tune with those presented twenty-five years earlier by the United States government in its brief in the Tee-Hit-Ton case in which it was successfully argued that the right of

Indians to their aboriginal title homelands is "comparable to that of a mere licensee, e.g., a squatter on the public lands."

The Crow Indians recently learned the very real danger in conceding that Indians are not in fact the owners of their lands and resources, that somehow the United States has come to own all Indian lands in trust for the Indians. In the Supreme Court decision of Montana v. United States (1981), the Crow lost their legal fight to maintain their ownership of and control of fishing on the Big Horn River which flows through Crow territory. This territory, Crow land for some 400 years, had been guaranteed by treaty to the Crow people for their "absolute and undisturbed use." The Court ruled that the river in Crow territory had been held in trust by the United States and that the United States had, by operation of a technical legal presumption, given that river to the State of Montana when that state was later created out of the public domain.

The attorneys for the Crow had stated that the river was held in trust by the United States and had thereby permitted the Court to completely avoid the central question in this and all other litigation over Indian lands and resources: By what legal right does the United States assert its ownership and its administrative power over Indian lands and resources?

In the latest Indian rights case, Merrion and Amoco v. Jicarilla Apache Tribe, the lawyers representing the Indians have again accepted and agreed to broad federal power over their clients. This case, which is pending before the Supreme Court, involves the issue whether Indian nations and tribes have the legal power to impose severance taxes on mineral extractions by non-Indian corporations from Indian territory. It will likely set an important and far-reaching precedent for, as the Jicarilla Apache Tribe's lawyer argued to the Supreme Court on November 4, 1981, "one of the powers essential to the maintenance of any government is the power to levy taxes ... we rely on the inherent sovereign power to tax."

After making this strong and central point, the same lawyer conceded, for reasons unknown, that Congress could simply take away his client's sovereign powers:

ATTORNEY FOR THE JICARILLA APACHE TRIBE: The tribal governments are dependent sovereign governments. They exist -- their sovereign powers can be divested by Congress. But until Congress act, they retain those powers.

The attorney for the mineral companies and non-Indian interests agreed but argued in addition that Congress had already taken away the taxing powers which the Jicarilla Apache Tribe were asserting. Should the corporate and non-Indian interests lose this round, they will undoubtedly soon be in Congress asking Congress to divest the Indians of their taxing power, just as the

Indians' own lawyer said Congress could do.

The lawyer for the United States government supported the Jicarilla argument that the Tribe had the sovereign power to tax, but he stressed the fact that the Jicarilla taxing ordinance had been approved by the Secretary of the Interior. He took the position that the Secretary had "residual powers" to disapprove and to refuse to implement any such Indian taxing ordinance which was not considered acceptable to the Secretary.

The message which these and many other lawyers are bearing to the Supreme Court and to other Federal courts, is that Indian sovereign rights exist solely by legislative grace of the United States government. Even the right of Indian peoples to exist and govern themselves as separate peoples is said to be by virtue of a sort of federal license which may be revoked at the will of the United States Congress. The lawyers who have made these concessions and who have taken such apparently disadvantageous positions can no doubt find legal precedents to support their arguments. But of the range of valid and practical legal arguments available, some lawyers regularly adopt positions which are least favorable to Indian interests, especially the long-range interests of Indian tribes generally.

It is, unfortunately, the exceptional lawyer who can be heard arguing today in federal courts that Indian peoples have fundamental rights to self-determination and to ownership and control of their lands and resources rights which arise from the history, separate existence and will of sovereign Indian peoples, rights which cannot be lawfully divested or impaired by the United States or by any other sovereign. Such argument is not far-fetched or difficult to conceive. It takes no special brilliance or creativity to fashion strong legal support for such argument from the early Indian rights decisions of Chief Justice John Marshall and from the body of constitutional law developed during the past several decades by advocates for civil rights, aliens' rights, women's rights, mental patients' rights,

juveniles' rights, and so forth. And a growing body of international law (which is applicable in United States courts), developing human rights standards during the post-colonial era of the United Nations, is also available to support fundamental Indian rights.

Of course, an Indian tribe may deliberately choose in a particular case to adopt a compromising position which concedes broad federal power or which surrenders or declines to assert its sovereign powers. In such a case an attorney must accept his client's position. However, it is wholly unnecessary and improper for lawyers to continue the practice of making concessions of sweeping federal power over Indians and Indian property in general.

The most important work of Indian rights advocates is to challenge -- and certainly never to embrace -- decisions such as Lone Wolf v. Hitchcock (1903) which put the veneer of law and justice on naked federal political power over Indians. One federal judge has already written that Lone Wolf is the Dred Scott decision of federal Indian law, a decision as bad for Indian rights as the notorious mid-nineteenth century supreme Court decision upholding slavery for blacks. Neither Indian law, civil rights law nor international law is frozen in the age of Andrew Jackson or Teddy Roosevelt when the leading science, religion and politics of the United States and all white nations presumed the right of white peoples to assert dominion over all the non-white peoples of the world. How could the United States government, a government of limited powers, defend today a direct legal challenge to its claim of unlimited, plenary power over Indians and Indian property? How could a government committed to democratic ideals deny that Indian relations with the United States must be based on agreement alone?



It should not be necessary to note that the ethical obligations of lawyers require that they zealously represent their clients, not whatever the lawyers consider to be in the best interest of their clients. Whenever Indians insist on their fundamental, sovereign rights, there is a legal, ethical duty which the Indians' lawyers must fulfill by zealously advocating those rights. If compromises must be made, it is the Indians and not the lawyers who are entitled to make them.

The totally unsatisfactory state of United States Indian law will continue until Indian peoples and others become aware of its failings and work to bring about the law reform which is so sorely needed. What is clear at this time is that many lawyers representing Indians have not even begun to fight the most crucial Indian rights battles. They have instead helped reinforce the discriminatory notion that Indians are subject to uniquely oppressive and virtually unfettered federal power. Until Indian peoples and the legal profession put an end to this practice, the future of Indian rights appears grim indeed.



POST SCRIPT: On January 25, 1982, the Supreme Court made its decision in the Jicarilla Apache Tribe case. Fortunately, the Court upheld the sovereign Indian power to tax mineral development operations on Indian lands. The pro-Indian rights decision was by a vote of 6 to 3.

The Jicarilla Apache decision is, however, a mixed blessing to Indians because the Court's majority opinion, written by Justice Thurgood Marshall, once again reinforces the notion of "handout" sovereignty as argued by the lawyers. The Court's opinion describes Indian sovereignty as an Indian right which exists by the grace of the federal government:

Of course, the Tribe's authority to tax nonmembers is subject to constraints not imposed on other governmental entities: the federal government can take away this power, and the Tribe must obtain approval of the Secretary (of the Interior) before any tax on nonmembers can take effect.

"Congress, of course, retains plenary power to limit tribal taxing authority or to alter the current scheme under which the tribes may impose taxes."

The arguments and concessions made by the Indians' own lawyer are echoed in

these stark assertions of sweeping federal power over Indians. He had stated to the Court that the sovereign powers of all Indian governments, including his Jicarilla Apache clients, "can be divested by Congress", and that the Indians' "dependent sovereign governments" retain only those sovereign powers which Congress has not taken away.

The Court's opinion states that this "plenary power" of the federal government will "minimize potential concern that Indian tribes will exercise the power to tax in an unfair or unprincipled manner, and ensure that any exercise of the tribal power to tax will be consistent with with national policies." This unchecked federal power certainly will minimize concerns of non-Indians but it offers no comfort to Indians concerned about advancing and protecting their own national or tribal policies. So much for real inherent Indian sovereignty.

After the Jicarilla Apache decision, mineral companies and their lobbyists will still have to convince Congress that it is consistent with national policies (and, of course, consistent with congressional

desire for reelection) to restrict or deny the sovereign taxing power of Indian tribes. But the Jicarilla Apache case has made it clear that those same non-Indian mineral interest now will have no difficulty convincing Congress that it has the absolute legal power to take such anti-Indian action.

In a footnote in its Jicarilla Apache opinion, the Supreme Court states that the legal authority of Congress to impose such legislation denying Indian sovereign rights is either based on the Indian Commerce Clause of the United States Constitution or that it exists "by virtue of its (Congress') superior position over the tribes." What is this "superior position over Indian tribes?" Is it a concept based on political power, military and economic power, morality, culture, or race? Because of the manner in which the case was presented and argued, that question was neither asked nor answered. Why is it that such a vague, unfounded and discriminatory concept still passes as legal doctrine in the area of federal Indian law? Ask the lawyers.

EMERGENCY RESPONSE INTERNATIONAL NETWORK

The past two years have seen a considerable expansion in the ability of the Emergency Response International Network to function effectively as a rapid-response, conflict-resolution system -- a system which steadfastly defends the rights of the Native People involved. We have grown from a small group of dedicated individuals operating on a word-of-mouth basis into a effective and efficient network involving thousands of people. The public outcry we have been able to generate has made the crucial difference on several occasions. We can truthfully say, with a good feeling, that lives have been saved because of our members' participation -- that the rights of future generations have been protected because our members cared enough to write a letter or make a phone call.

E.R.I.N. people are asked to become members by making \$10 per year donation. This will allow us here to mail the Bulletin regularly on a monthly basis, and also to carry on the telephone and special printing work necessary during emergencies. There are also special fact-sheets, pamphlets and books which need printing and dissemination -- and which your E.R.I.N. membership will make possible.

We realize that this move on our part will trim our list of callers and that is regrettable. We feel, however that most people will be able to afford the \$10 per year request. But those who are really incapable of making that sacrifice at this time, please write to us, explain your circumstances and we'll work something out.

For those who can afford to give more to this effort (and for organizations) we have other special designations. They are listed in the enclosed coupon.

Don't forget your contributions to E.R.I.N. can be tax-deductible if sent to E.R.I.N./Youth Project. Thank You!

YES! I support the work of the Emergency Response International Network. I want to become a:

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- ...Organization - \$50
- ...Sustaining organization - \$1,000
- ...Lifetime Patron - \$5,000

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MYREX

AN INTERVIEW WITH THE 4TH GRADE CLASS AT THE AKWESASNE FREEDOM SCHOOL

(This issue speaks of the pollution of water. The 4th grade Mohawk students have much to say on this topic. I feel honored to share the following interview with you.)

AN: Water and Native peoples is a important issue. In the Cree lands the James Bay Company has flooded their hunting and trapping lands. In South Dakota test holes for uranium have been drilled and the radioactivity has polluted the Sioux peoples water. Here at Akwesasne PCB's have been found in your water. What were your first thoughts when you heard about PCB's polluting your water?

TEHONERATASTE: I wondered what it was and how did it get in the water? Where did it come from? Will it kill me? Can we drink the water? Do the PCB'S travel in the river? If we drink the water for 20 or 30 years will we get cancer? Are PCB'S all over the place, besides here?

AN: PCB's come from the factories. PCB'S do not naturally occur in the water. There is a natural level of radiation.

AN to teacher: Can you tell us about Monsanto?

TEACHER: Tehonerataste brought this ad from a magazine and he asked: "Kanientonke, is this true that "without chemicals, millions more would go hungry"? I looked at the ad and saw it was produced by Monsanto and I told him, "Tehonerta, Monsanto is the only company in the world that produces PCB'S." He looked up at me and he said, "It's not true then, is it Kanientonke?"

PCB stands for poly chlorinated biphenyls which is a group of about 200 man-made chemicals. They are colorless. PCB'S are used in industry as coolants and as insulation fluids in electrical transformers. They have also been used in paint and hydraulic fluids in hot environments (factories) because they don't burn.

When PCB'S are in the water it attaches to clay, so it will be on the bottom of the river and the water wells, because that is where you find the clay sediment.

TEHOKWIRATE: We must have alot of PCB'S at our house because our well goes right to the bottom.

TEACHER: Most of the area around here is made of clay. You can go to the river bank and get clay to make pottery.

KANERATENTA: How did we get so much clay on the river banks?

TEHONERATASTE: The Seaway did that. They say the river (St. Lawrence) used to be smaller. My Father said they used to go swimming in the river and there were currents and whirlpools, it used to be real nice. They could walk across the river in the winter. Now it does not freeze because the Seaway made it wider, deeper and polluted.

ARONIATAKO: How do the PCB'S get out of the General Motors factory to get into our water?

TEACHER: After PCB'S are used for a long time it becomes a waste and they dispose of it by putting it into a lagoon or pond of water outside of the factory. The PCB'S leak from that pond into our water. Behind the factory there is a big pipe that dumps industrial waste directly into the St. Lawrence River.

AN: Can the PCB'S be cleaned up?

WATHAHINE: No.

TEACHER: They can try to clean it up by lining the lagoon with clay, but they can't clean it out of our water supply.

AN: In this ad that Tehonerataste brought it says, "Some people think that anything grown with chemicals is "bad". And anything grown naturally is "good". Yet nature itself is a chemical process. (Interestingly, your body cannot tell whether a chemical was made in the laboratory or was made by Mother nature.)" Do you think that's true?

ALL STUDENTS RESPONDED: No, that's not true. Our bodies know the difference. (See cartoon which the students discussed.)

WATHAHINE: Is there mercury in our water?

AN: Tests are still being made to see if there is mercury. There is mercury in the water of the Grassy Narrows Reserve in northern Canada. Mercury comes from paper mills, like the Domtar Paper Plant across the river from here. Mercury attacks your nervous system. The government told the Indian people not to eat their fish, just like they tell us not to eat the fish. But, at Grassy Narrows the fish are the peoples main source of food so they keep eating the fish. We have a little chart that shows how to cut up fish to get the PCB'S out!

How do you feel about the group of people, some of your parents, who are working on the PCB problem?

KANERATETRA: Better, pretty good. We know that somebody is trying to figure out this problem.

KONWAWIHON: They showed this movie about us. The cows started losing hair and their teeth fell out.

AN: That is caused by the fluoride

from the Reynolds Aluminum Plant. Many tests have been done on fluoride.

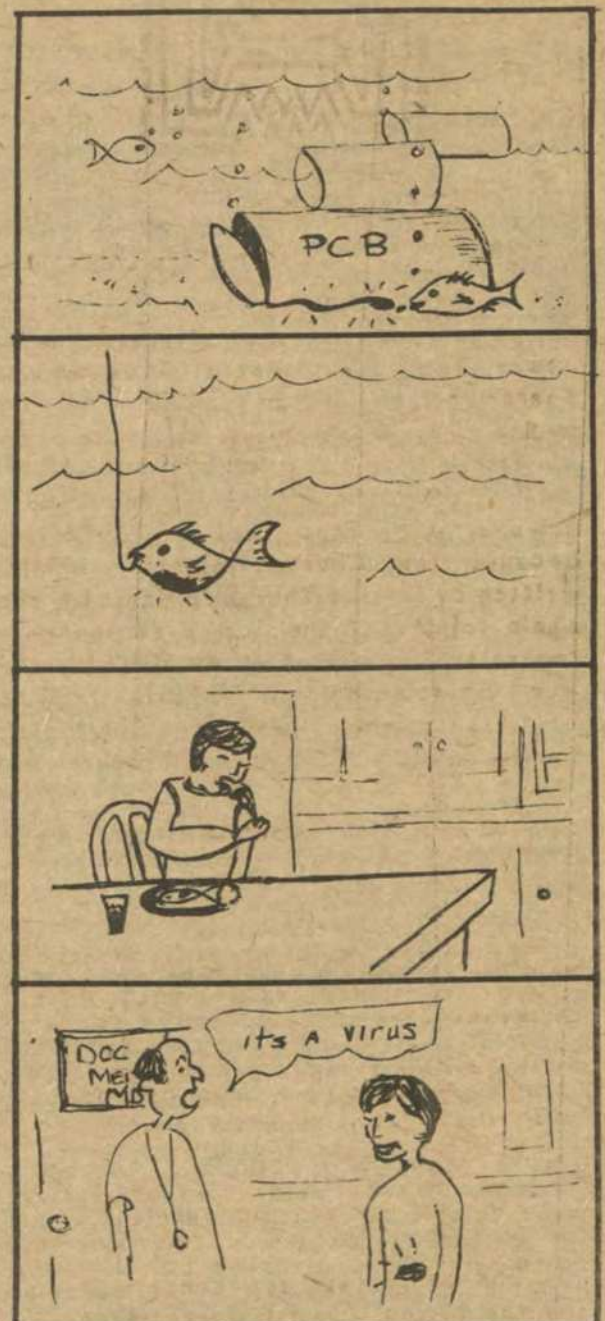
KONWAWIHON: The gas station dumped gas and oil in our creek. We saw a bunch of dead fish and dead frogs. We have to take the horses and cows down to the river so they won't drink the water in the creek.

TEHONERATATE: Some of our people have that skin disease from the fluoride.

TEHOKWIRATE: We should file a law suit against those factories. How come those big factories don't listen to the people?

TEACHER: It says in this Monsanto ad "Without chemicals, the problem would be much worse." Do you think that is true?

TEHONERATATE: No, that's a lie. At this point I was called to listen to a report from the scientists who are testing our water. He said that several of the wells at the students homes are TOTALLY UNFIT FOR HUMAN CONSUMPTION.



SHORT NOTES



"This section of the river is not fished commercially except by Indians" - Skagit River, Washington.

Photo credit: Akwesasne Notes file photo.

GILLNETTING GETS SUPREME COURT OK

The U.S. Supreme Court let stand a ruling that gives three northern Michigan Indian tribes the right to fish in the Great Lakes free of state regulation.

The action, which came without comment from the court appears to end a legal battle over the gillnetting that began in 1971. But a joint statement released by state Attorney General Frank Kelley and Gov. Milliken indicated that some issues are still not resolved.

"We're disappointed that the United States Supreme Court has decided not to hear the state's appeal of an Appeals Court order upholding treaty fishing rights for Michigan Indians," the statement said. But left undecided, the statement added, was the state's exact role in preserving Great Lakes fish stocks, "a resource the state has worked so hard to restore and maintain."

However, both Kelley and Milliken seemed to concede for the first time that the court action firmly establishes the legal treaty right of the Indians to fish commercially free from state control.

The decade-long dispute has sparked tension between three tribes - the Bay Mills and Sault Ste. Marie Chippewas and the Grand Traverse band of Ottawas and Chippewas - and sports fishermen in the waters of northern Lakes Michigan and Huron and eastern Lake Superior.

The Indians have maintained - and U.S. District Judge Noel Fox in Grand Rapids has upheld - that two 19th Century treaties grant the tribes unlimited fishing rights.

JUDGE SUPPORTS BAN ON SPORT FISHING

U.S. Magistrate John L. Weinberg said December 21 that Indian tribes in Washington State should get their full 50 percent treaty allocation of Puget sound salmon in 1982 even if that would require closing sport fishing on Puget sound and the Strait of San Juan de Fuca for as much as seven months in the year. The state had asked Weinberg to recommend gradual implementation of the treaty right, achieving a 50 percent allocation for Indians by 1985, thus avoiding disruption of the sport fishing. Weinberg concluded, however, that the state "has shown no persuasive reason for further delay of full implementation of the tribe's treaty right." Weinberg's recommendation now goes to Judge Walter E. Craig of the U.S. District Court for amendment or implementation after receiving responses from the involved parties. Craig succeeded Judge George Boldt in exercising continuing jurisdiction over the Washington treaty fishing dispute. "All our struggles with the state of Washington may have been worthwhile," said Gary Peterson of the Point No Point Treaty council, "if the sport fishery can finally be treated similar to other fisheries. Every other fishery in the Puget sound area is managed by time and number of allowable harvestable fish. It is only fair that the marine chinook fishery be regulated in this way as well."

Federal appeals judges have said twice before that they agree with a 1976 Michigan Supreme Court ruling that state administrators could regulate Indian gill-netting if the fishery were threatened with extinction and could be saved no other way.

Stated Bay Mills Indian Community Chairman Wade Teele: "I can't tell you what this final favorable decision means for us. Finally, we are in a position to be optimistic about planning for the future economy of our people. It is the best gift we could have for the New Year."

POLITICAL PRISONERS: DINO & GARY BUTLER ON HUNGER FAST

According to figures compiled by the Justice Department, the prison population of the U.S. shot up at a record-breaking pace during the first half of 1981. The increase of over 20,000 new state and federal inmates from January to June 1981 was greater than the increase for all of 1980. There are now approximately 335,000 men and 15,000 women locked up in U.S. jails.

In U.S. and Canadian prisons Native Americans account for the highest percentage. Their crime of resisting the colonialists policy makes them targets for persecution and harassment in jail (Leonard Peltier, being the most publicized).

Among recent cases is the one of Dino and Gary Butler who are presently in jail in Oakalla Prison in British Columbia. They were found guilty on January 18, 1982 of nine different counts including firing dangerous arms in the city limits and possession of fire arms. Sentencing is scheduled for February 5th.

Dino and Gary are long-time American Indian activists. Dino stood trial in 1976 along with Leonard Peltier. He was accused of aiding and abetting in the killing of an FBI agent. He was acquitted on the grounds of self-defense. It was proven at that trial that the FBI had terrorized the people in Oglala before attacking Jumping Bull Camp where the FBI agent was killed. Leonard Peltier was sentenced for that death.

Dino and Gary's recent struggle is again focused on the right to their form of worship. On December 15, 1981, they began a food fast for the right to be allowed religious ceremonies in Oakalla

Penitentiary. They ended their fast on December 24th when prison officials promised Dino he could have his Sacred Pipe, tobacco, sweetgrass, sage, cedar and eagle feathers in his assigned cell so that he could pray anytime of the day. That promise was never kept.

When they went to trial in January, Dino and Gary asked the presiding judge Allen McEarchen (Chief Justice of the Supreme Court who personally chose this case) for the pipe to be admitted in the court. When their request was denied, they "stood mute" throughout the proceedings. They were also without counsel as they had dismissed their attorneys. The jury found them guilty.

Since the trial, Dino and Gary have been fasting and this time they vow not to end it until their religious rights are recognized.

At this time it is urgent that letters be sent directly to the judge to protest the trial proceedings as well as the his failure to allow the Butler Brothers' religious freedom.

Letters should be sent to:

Judge Allen McEarchen
Begbie Square
New Westminster, B.C. Canada

with a carbon copy to:

Gedey Guenther
(Butler Brothers Attorney)
245 Main St.
Vancouver, B.C. Canada

for further information: Society of the People Struggling to be Free, Station K, P.O. Box 69092, Vancouver, B.C. Canada, 604/879-4741

SHORT NOTES

INDIGENOUS PROTEST NUCLEAR PLANT IN MICHOACAN, MEXICO

Over a period of the past few months Mexico has witnessed positive steps in defining crucial elements of the nuclear power debate, presently in its primordial stages here. The goal of a future "mas auto-suficiente" in the realm of industry and a rise in the pueblo standard of living were the kinds of "anzuelo" (bait) dangled both by government officials and the powerful Uranium Workers' Union -- el Sindicato Unico de la Industria Nuclear. Approaching years were portrayed rich and abundant, full of positive change recalling the era of promises just prior to the oil boom. Ecologists and detractors were dismissed as misinformed alarmists inhibiting progress. "Deliriantemente, el omnipotencia tecnica" (the omnipotent technical fix) was offered as reassurance to questions about the medical, social and environmental costs.

Raging in popular media throughout the extensive debate was the issue of the selection of Santa Fe de la Laguna on Patzcuaro Lake, Michoacan for construction of the Central Nuclear Research Facility and reactor. This project would have become the second reactor in Mexico, the first one having already been constructed in Vera Cruz and about to go on line in '82.

A large street demonstration called for by indigenous "Purepecha" communities -- seemed to add a new element and soon afterwards a reversal of government policy was announced. While it is not clear how much weight the indigenous protest had in shifting the search to another site, it is clear that it was effective in sharply alerting a nation heretofore unfamiliar with the nuclear story and its consequence among native people who are exploited and affected by the nuclear wave.

The fierce dialogue continues along with the search to reconcile economic and political goals. But in the process the foundation for an active citizenry has successfully been laid.

from P.A.N. Awareness Network
Michoacan, Mexico



Mazatl (Deer)



Photo credit: Pamela Giger

MORMONS ALTER INDIAN PROPHECY

The Mormon Church has altered the wording of a prophecy about Indians so that it no longer says native Americans will develop "white" skin if they join the religion.

In a new edition of the Book of Mormon, a prophecy that had said Indians would become "white and delightsome." Church members accept the Book of Mormon as holy scripture equivalent to the Bible.

A church spokesman, Jerry Cahill, said that the first and second editions of the Book of Mormon, published by Joseph Smith in 1830 and 1837, used the word "white" in reference to Indians. A third edition, published in 1840, used the word "pure." But Mr. Cahill said that the term "white" was re-adopted in all later editions.

However, he said, church officials believe the re-insertion of the word "white" was an editing error and that Mr. Smith intended to have the prophecy use the word "pure." Mr. Smith died in 1844.

The Book of Mormon tells of ancient Israelites who moved to the American continent and developed into two warring factions, the righteous Nephites and the evil Lamanites.

According to Mormon doctrine, the Lamanites were ancestors of the American Indians. The Book of Mormon says the Lamanites exterminated the Nephites.

Mormons have generally accepted the belief that God cursed the evil Lamanites with a dark skin and that the curse was passed on to present-day Indians.

Church leaders have said the curse of dark skin would be lifted from Indians who embraced the Mormon religion.

In 1960, before he was elevated to the presidency of the church, Mr. Kimball said in a speech that Indian children living with Mormon families had lighter skin than their brothers and sisters who remained on reservations.

The church has a program of placing Indian children with Mormon families so the youngsters can attend non-Indian public schools.

WORLD PEACE MARCH IN U.S.

People across the United States and around the world are becoming increasingly aware of the possibility of nuclear war. The religious community, in particular, is stirring itself to action. The main focus is on the United Nations Second Session on Disarmament to be held in May and June of 1982 in New York. In response to this focus, the Nipponzan Myohoji Japanese Buddhist monks, and their supporters, have set off in four directions around the world in a World March for Peace. The March which was launched in October, 1981, from both Los Angeles, and San Francisco, from Central America to New Orleans, and from Canada through Boston and on to New York. All of the Marches will converge at the UN for the opening of the Special Session in June of 1982.

TAPIRAPE OF MATO GROSSO, BRAZIL IN RESISTANCE

A land conflict is threatening the survival of the Tapirape people who are a small community of about 200 natives living on the mouth of the Tapiraguaia river in the Mato Grosso, Brazil. this conflict has been lasting for years between the Indians and the first development corporations, who arrived in 1954, followed by the first immigrants who settled down on Tapirape land. At the time, the native community (2000 in 1900) had gone down to 48 people, as a result of a measles epidemic due to contact with the settlers. Today, they number 200.

Since the beginning of this colonization, the Indians have been trying to have their territory outlined and their borders recognized, dealing with FUNAI (the official department for the protection of the Indians). Finally, FUNAI had agreed to establish official borders by July 1981. Now FUNAI has plans to reduce the Indians' territory even more for the benefit of the neighboring cattle farm, who has been encroaching on native lands ever since their arrival.

The situation at the mouth of the Tapiraguaia River is tense. A police division is stationed at the cattle farm (called the "Tapiraguaia Domain"), intimidating the natives and ready to suppress any revolt, while the army is drawing the border line in areas so far where there is no conflict. Indian representatives are trying to negotiate in Brasilia. They are determined to resist, but support is badly needed.

For more information write to:

Dom Pedro Casaldaliga
Av. Dr. Jose Fragelli 1310
78370 Sao Felix Araguaia
Mato Grosso, Brazil

Dom Tomas Balduino
CIMI vice-president
Caixa Postal 102.382
7000 Brasilia, Brazil

from DIAL No. 729, Paris, France



File Photo: ARC

INDIANS EVICTED IN REGIME'S RUSH TO SELL PARAGUAY

By James Evans and Jack Epstein

Asuncion - Judging from the advertisements, Paraguay is an unlimited and uninhabited paradise. At least, that's what the carefully placed real-estate promotions have been suggesting to North American, European, and Japanese markets.

The sales campaign - a part of a systematic effort by General Alfred Stroessner's Government to woo foreign investment to this landlocked nation - pictures Latin America's fastest growing economy as an underpopulated wilderness ripe for development.

Desolate West Not Uninhabited

Yet most of the tendered acreage is in the desolate western half of the country, an area neither unlimited nor uninhabited - as the many Indian tribes can attest.

In the fertile eastern regions, where the country's agricultural wealth is produced, available land is more scarce, and - according to the protests of families already living there - even more inhabited.

But Gen. Stroessner and his economic counsellors take little notice of the charges against the legality of the land sales, which have pressed western nomadic tribes into an unlikely alliance with poor eastern peasants in a struggle to stop their hunting grounds and farms being sold from under them.

"Civilization has always overwhelmed people who stand in the way, especially indigenous groups," said a diplomatic source, explaining the Government's rationale. "That's progress."

To both groups, however, the land issue is nothing new, but an intensification of the Government's long-standing policy of stripping them of land whenever it is judged necessary.

For the 70,000 Indians, the dispossessions have their roots in the aftermath of Paraguay's calamitous 1870 War of the Triple Alliance, a five-year armed conflict with Brazil, Argentina, and Uruguay.

For Sale:

The war left Paraguay devastated, and the country's leaders, after ceding millions of dollars and hectares to the victors, decided they had only one option to bring the country out of bankruptcy - sell its portion of the Gran Chaco, the large lowland plain of central South America.

Bargain Prices For Enormous Tracts

Enormous tracts were offered at bargain prices, and most were sold to foreigners. That the arid and inhospitable region was called home by indigenous residents was certainly no obstacle, as the nation's 17 tribes weren't even classified as human beings until a 1957 Supreme Court decision. They still are not considered citizens, and thus are unable to own land.

Most tribes are traditionally nomadic, without any concept of individual land ownership. This outlook not only limits their ability to deal with bureaucracies, but also puts them at odds with existing farmers.

By viewing land as a natural and therefore free resource, they see everything on the land as also free, and available simply to be picked and consumed. Farmers, who reportedly restrict indigenous movement on any pretext have reacted by closing off large tracts of orchards and cultivated fields, denying tribes access to what have been their ancestral migratory routes and hunting grounds.

This, combined with actual land displacements, has transformed the Gran Chaco Indian population from mobile hunters and gatherers to depressed landless laborers, almost totally dependent upon an unsympathetic landowning class.

The most notorious recent example involves the small Toba-Maskoy group. Bending to criticism from local religious and international relief organizations, Gen. Stroessner announced that previously sold lands would be returned to the tribes, and even signed a decree to that effect.

Nevertheless, within a few months, under pressure from wealthy title holders in the region, the 68-year old dictator reneged on his promise.

The Toba-Maskoy were subsequently removed by the army from their birthplace to a waterless and sandy scrub land known as Kilometre 220, which also happened to be the territory of their ancient enemy, the Ayoreo.

The incident has spurred already active Indian support organizations to introduce a bill in the tightly controlled legislature which would allow tribes to own their own land on a collective basis, a concept they more readily understand.

For the peasant farmer, predominately in the fertile east, the story is similar, except that he may legally own land. However, many do not hold title simply because their ownership had never been challenged, nor were they ever required to pay taxes.

"We're talking about a abandoned areas that nobody wanted," a diplomatic source said. "But that's all changed now that big money is coming in."

He is referring to the billions pouring in from the Itaipu hydro-electric project with Brazil, which is encouraging thousands of Brazilians to colonize the entire length of the Paraguayan side of the border.

PARADISE in PARAGUAY

Suddenly families who have farmed a site for generations are told they are squatters, illegally occupying land owned by powerful generals or large domestic and foreign commercial interests. They are ordered to go.

Dispossessed Return To Homes In Secret

The dispossessed either try to return unnoticed to their homes, or leave and form squatter settlements on large, unworked estates. Once discovered, however, they find themselves in the grip of the same eviction process.

Those who attempt to secure legal title before displacements begin are quickly wrapped in the corruption of the numerous regulatory agencies. People talk of struggling for ten years to receive a deed to unclaimed land on which they were born and raised.

But not everyone has such difficulty. "Corporations and wealthy individuals get their titles," a Paraguayan political observer explained. "An influential friend or enough money to pay the bribe is what gets things done. If a poor man is fighting for the same piece of property, he doesn't have a chance, and even if he isn't, he finds mostly trouble."

Considering the forced expulsions and impotence in the face of unresponsive bureaucracies, occasional violence is not unexpected, nor is the Government's instantaneous and harsh reaction.

In March, 1980, 20 desperate peasant farmers hijacked a bus in an effort to draw attention to their mistreatment. They were quickly subdued, with some executed on the spot, as were several of the more than 200 people who were in the investigation which followed.

"If this continues," a reporter for Asuncion's leading daily ABC observed, "we're going to have a dangerously explosive problem on our hands."

The Government has an agrarian reform program, and likes to point to the dramatic increase in the number of small farmers over the past 30 years. But their boasts conflict with studies showing that as little as .4 per cent of the nation's farms account for as much as 73 per cent of the cultivatable acreage.

Institute Is Accused of Corruption

The Institute of Rural Welfare is ostensibly in charge of land distribution, but it has been accused of corruption - selling the same land twice, for example - and being nothing more than a patronage distributor.

"The institute is a sham," an Asuncion attorney complained. "Look at Juan Manuel Frutos (the director). He's a major land holder and the third most powerful man in Stroessner's party, and he wants to be president someday. So who's side do you think he's on?"

Buried in the controversy is a question which persistently arises in conversation on the subject. Why, in light of the rapidly expanding economy, is Gen. Stroessner so blatantly selling his country?

There's no lack of opinions on that, but the consensus is summed up by the editor of one of Asuncion's leading newspapers: "Money," he says as if the answer were self-evident. "That's all they (the government) have ever been interested in, and they won't let anything stand in the way of it."

NEW ACTION IN BLACK HILLS

PRESS RELEASE

From: Oglala Lakota Legal Rights Fund

The United States Supreme Court today let stand without comment a 1981 Eighth (8th) Circuit Court decision dismissing the Oglala Sioux Tribes suit to regain possession of the Black Hills. The Tribes suit challenged the constitutionality of Congress' 1877 confiscation of their traditional Holy Land and shrines to avoid removing trespassing gold seekers as required by the 1868 Sioux Treaty. The Supreme Court itself in 1980 said of the taking of the Hills, "a more ripe and rank example of dishonorable dealings will never, in all probability be found in our history."

NEW BLACK HILLS ACTION -- OGLALAS SUE HOMESTAKE MINE

The Oglala Sioux Tribe of the Pine Ridge Indian Reservation (located in South Dakota) today sued Homestake Mining Company, one of the largest gold producers in the world. A pillar of the Hearst family's financial empire, Homestake has produced more than \$1 billion since it opened a century ago. The Sioux have filed their action in United States District Court, San Jose, California, to quiet title to the mine, for a financial accounting for the gold, silver and other minerals removed from it and for \$6 billion for trespass and conversion of its proceeds.

Sacred to the Sioux peoples from time immemorial, the Black Hills were never sold to the United States. In 1868, the Treaty of Ft. Laramie guaranteed to the Sioux the "absolute and undisturbed use and occupation" of the Hills forever. This recognition vested the tribes title under the United States Constitution and Congress no longer had authority to take the land except in accordance with the Constitution, e.g., for a lawful public purpose under the Fifth Amendment. Federal laws made it a crime for whites to settle on, or remove minerals from this land. But rumors of gold brought hundreds of miners to the Hills in 1875, where they had to dodge Army patrols to avoid arrest and forcible removal.

Moses Manuel and A.C. Harney, itinerant prospectors, discovered placer gold near present-day Lead, South Dakota, in April, 1876. After working the placer through the winter, they sold their "claim" to three San Francisco entrepreneurs for \$70,000. George Hearst, father of media

magnate William Randolph Hearst, was already a relatively rich man from the Comstock silver lode -- also "staked" on unceded Indian land. His two partners in the deal were Lloyd Tevis, notorious for swindling Western Union out of one-third of its stock, and James Ben Ali Haggin, originator of the Arizona desert land racket. On November 5, 1877, they incorporated as the Homestake Mining Company and began to crush ore. For the next 20 years, Homestake was the largest gold mine in the world.

Fortune hunters like Manuel and Harney suffered from no illusions as to the legality of their actions. Curley's Guide to the Black Hills, first printed in 1876 in Chicago and sold to aspiring millionaires as they headed west, advised them that "to preserve order the miners in the Black Hills assume, that the mining laws of the United States are of legal and binding force therein (which is directly contrary to fact)." Although the land still belonged to the Sioux, the Guide explained the miners had established a "provisional regime, which must prevail till the miners leave of their own free will, or are driven out, or till the Indian title shall be extinguished." The miners urged Congress to seize the land and confirm their "rights," retroactively.

Congress did seize the Hills unconstitutionally in February, 1877, because the taking was for a non-public purpose in violation of the Fifth Amendment to the United States constitution, i.e., taken for the benefit of persons like Hearst, Tevis and Haggin. While no law recognized the trespassing miners' claims, they remained in possession and were never called to account for their crimes. The Army, which until then had been busy removing the prospectors from the Hills, began to remove the Sioux. "If a mob of vandals invaded and sacked a suburb," stated Oglala co-counsel Russel Barsh, "no one would think a moment of sending in the police to seize the homes of law-abiding citizens and turn them over to the lawbreakers, as appeasement." "But this is exactly what the Congress did in 1877, depriving the Sioux people of their homeland and their church, and making men like Hearst, Tevis and Haggin rich and respectable."

While the trespassers and those who followed them to South Dakota prospered, the Sioux starved. Today, the Oglala Sioux Tribe grapples with 80% unemployment and some of the poorest health and nutrition conditions in the nation. The Sioux never saw a penny's worth of the Hills' estimated

Fifty Billion Dollars in mineral wealth, while Homestake still can pay its shareholders millions yearly in dividends. "It is time," according to Oglala Sioux tribal attorney Mario Gonzalez, who is also a tribal member, "that this Country confronts the fact that its historical prosperity and great fortunes are at least as much due to lawlessness as to genius." "It pains me to think of all the Indian people who starved to death over the years while people like Hearst enjoyed the fruits of our constitutionally protected property." "In reality, the American taxpayer has subsidized the Hearsts and other exploiters of Indian resources; the government has to provide us with welfare since our property is being used to benefit people like the Hearsts," Gonzalez said.

The Oglala suit invokes the Indian Trade and Intercourse Act, the same law that was involved in the Indian land claims suit in Maine, Rhode Island and New York.

Sidney Flores of Flores, Cervantes, & Luna, San Jose, California will serve as local counsel of record for the tribe. Youngblood Henderson, who works for the firm stated that "this suit will determine whether this Country is governed by law or by wealth."



Mato Nazi, Wagner, S.D.

Photo Credit: Bannon



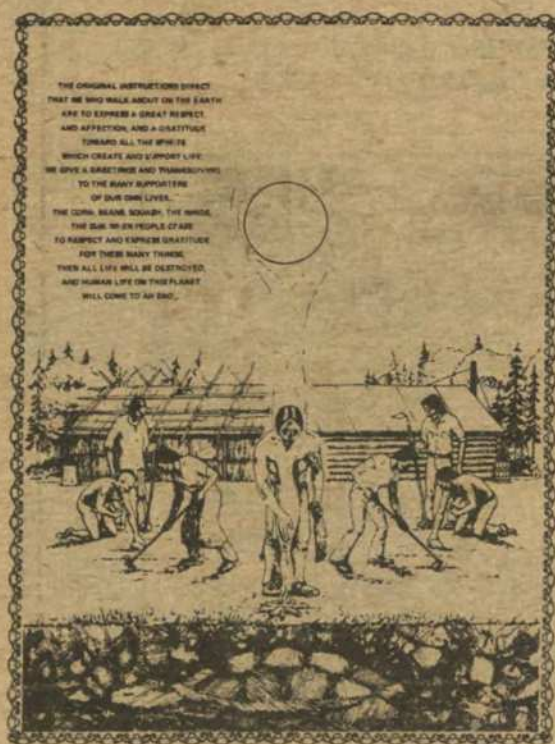
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HEADWATERS

Far back in the woods
there is always the hint
of something moving
at the edge of your vision.

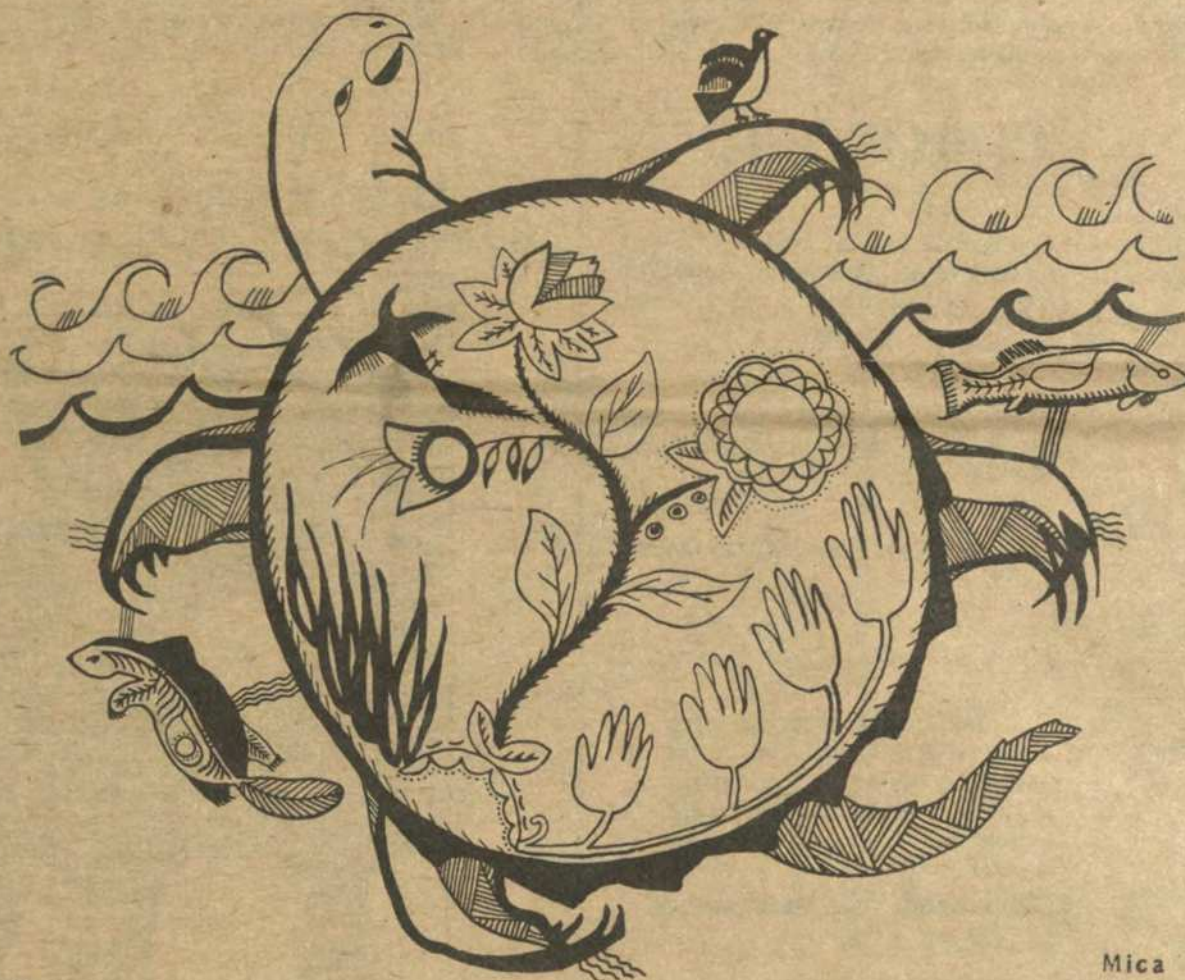
They have told you these hills
were abandoned by magic,
yet you touch the Earth
and with a bare palm
you feel its heartbeat.

Each step you take
follows a trail
made before your breath
tasted this air,
sharing a thousand legends.

Walk back, following
your own tracks.
Come to the place
where the log bridge
crossed the stream
near the spring
where the river
has its headwaters.

See how the footprints
of the Bear in the mud
on that other side
were once those
of a human being.

Joseph Bruchac.



The Innumerable Indian

Red man was born in northern
Que. He was a lumber jack, he
was so strong that when he
touched a tree it fell down.
One day he went to the creek
and he saw a raft and he got
on the raft and he went down
the river. He was so heavy he
made the river expand. The
river expanded to much it started
a tributary that is called the
mississippi river. Then
he went back up the stream and
went on to a lake and made the
great lakes.

By Karontote Mohawk

RIVER OF OURS

Lazily weaving its way
Snaking across this land of ours
Holding the power of life and death

In its deep, dark rolling water.

Many years have gone by
The land it once covered is dry
It has moved once again
Seeking a bed where it can run

It is just a river

But it flows through my heart
Washing away the secrets I hold

Things in my past, stories untold.

I live a life of so long ago
Sitting on its banks
Pondering its mysterious ways
Following its lead.

L.D. Malcolm

Washita

here at the rim
of the world
(which is the shell
of the turtle
bloodied hands lie
tracing soft eddies
in the water.

the rim of the earth
is a taut edge of pain
is washita -- sand creek

the eye of the turtle
will not blink

the rim of the earth
is her throaty scream
and the wail of her unborn

the throbbing hum
of the universe
is the groan and sigh
of the turtle
heavy with a weight
measured in flesh

dogs bark somewhere
we hear them far off
into the magical night

red sun sets on the carnage
bloated bodies float together

the trees are still
the dead lie in tatters
love has wandered away

the bloodied hands
of the dead woman
(heavy with her
sad unborn baby)
trace soft eddies
in the red red water
at the rim of the world.

pineapple

Mica

The Whale hunters
rowed into fog ..
And out through fog ..
Oh! how blue,
how bright the wide sea!

Frank Chilcote

Sleeping Turtle. . .
In this frozen pond
My apologies please . .
I must chop a hole
So my horse can drink.

Frank Chilcote

The days of slender summers
Picturesque horizons beautiful
Champagne clouds and ocean roar
Unorganized beating of the heart
Wild movements, crash of water
Coastal waters of today
Energy waters of tomorrow
Rhythm with the modern soul
Rainbow colors of sunrise
A land far away
Sky people
Why do you fly?
Humble to the bees and butterflies
Nectar from the nest
Bears prowl and bluejay cries
Red deer drinks forest water.

Jim Tollerud